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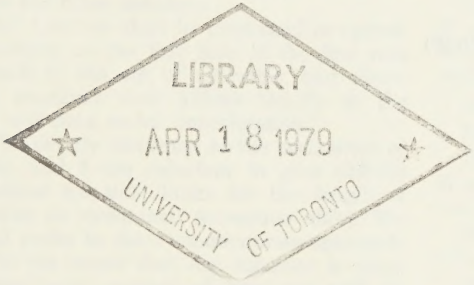
No. J-1

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee

Estimates, Ministry of Correctional Services



Third Session, 31st Parliament

Wednesday, April 4, 1979

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 10:14 a.m.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

Mr. Chairman: The estimates of the Ministry of Correctional Services. We have 10 hours. As a matter of procedure, I would like to read you a memo I have received from the Deputy Speaker.

"Mr. Ed Philip, Chairman of the Administration of Justice Committee:

"You will no doubt have noticed the changes in the standing orders adopted by the House last December concerning the estimates procedure in the House and in committees. Standing order 48(b) and (c) place a new onus on the chairman and members of the House to exercise caution in adhering to the rule of relevancy during the course of the estimates.

"48. '(b) The chairman of the committee considering estimates shall apportion the time available among the minister, opposition critics and other members.

" '(c) Latitude shall be permitted to opposition critics on the first item of the first vote of each of the set of estimates, and thereafter members shall adhere strictly to the vote and item under consideration.'

"The deputy chairman of the committee of supply and I are reluctant to give definite guidelines for time limits for the length of speeches as mentioned in section 48(b). We would prefer to use a commonsense approach, but in the event that any member is using an inordinate amount of time we will be required to enforce the rule. I hope that this will be of assistance to you in providing a uniform approach to the Chair throughout the estimates procedure."

That's a memo that has been sent by the Deputy Speaker to all the chairmen of committees. Has anyone not received a copy of that memo? I can get extra copies provided to all of you.

As a matter of procedure, in an informal meeting I had with the minister and with the two opposition critics they agreed that the minister would be encouraged to use certain slide presentations in his opening statement. There will also be other films and slides available at the appropriate vote should the committee decide that they wish to see them, and the minister will inform you of that.

We also have had some indication from the two opposition critics that they would like to set one session aside for—shall we call it field work?—and a visit to Guelph Correctional Centre. It has been suggested by the minister that this could be accommodated on this Friday if members of the committee would be interested. I see Mr. Bradley shaking his head "no". I know he is interested; but is it just inconvenient for him?

Mr. Bradley: Yes.

Mr. Chairman: Perhaps if the opposition critics and the minister can get together before tomorrow and decide on one of the times—

Hon. Mr. Walker: Next Wednesday might be the most convenient for everybody. We could leave early in the morning and be finished shortly after lunch or whenever.

Mrs. Campbell: Mr. Minister, I wonder if all of those who might be going might have photographs of marijuana, because I understand you grow it there.

Hon. Mr. Walker: At Guelph?

Mrs. Campbell: Yes.

Hon. Mr. Walker: Not to my knowledge. If we grow it, it's for export, I can assure you.

Mr. Chairman: Is Wednesday okay with you, Mr. Ziemba?

Mr. Ziemba: Fine.

Mr. Chairman: We will need to get permission from the Legislature, even though this will be of no direct cost to the committee since the Ministry of Correctional Services has courteously offered to transport us in the same bus that prisoners are transported in; so you will get a little bit of realism.

I hope all of you will have a good trip, because my estimates start on Wednesday, so I won't be joining you. I was hoping that it would be Friday, but it is more important that the critics be there.

We will ask permission of the House for us to go to the penitentiary on Wednesday. Transportation will be supplied by the Ministry of Correctional Services.

The only other decision on this is that normally we do not provide Hansard coverage on occasions like this. However, it has been provided in cases such as when the resources development committee went down to see the Krauss-Maffei project in Kingston and a briefing session with their officials took place afterwards. I am at your discretion; if you wish Hansard to be present, and if you want a recorded briefing with officials there, then we will have to make arrangements to see what can be done through the office of the clerk and the government House leader.

Hon. Mr. Walker: I think, Mr. Chairman, that briefing probably will not be that important, because I think the briefing will come from the viewing and, as you wander along, some correctional officer saying, "Now this is . . . " and that type of thing. I suspect a formal briefing session would not likely be that valuable, although I certainly would welcome any invitation that we would lay that on.

Mr. Chairman: Mr. Ziemba or Mr. Bradley?

Mr. Ziemba: I don't think Hansard coverage would be that useful, Mr. Chairman. I can't see that the guards or the superintendent would have that much to say that we're not going to hear during estimates anyway.

I'll tell what I would be interested in. If prisoners wanted to make some presentation to the justice committee, maybe that would be in order. I don't know how you feel about it, Mr. Minister, but if we wanted we could give notice of our visit next Wednesday so that, if there are some grievances that prisoners want to put to the committee, we could allot so much time; perhaps we could get Hansard there to get it on the record. I don't know how the committee members feel on this.

Mr. Chairman: Mr. Bradley, on that?

Mr. Bradley: I can't see why we would need Hansard; but I also would be interested in hearing from persons other than those who work for the Ministry of Correctional Services.

Hon. Mr. Walker: You certainly can talk to anyone you want to. There's no problem that way; I'm not suggesting any limit there. I must say that I would feel uncomfortable if in our estimates procedure we proceeded to spend a fair amount of time entertaining the views of the prisoners. The views will be as many as there are prisoners, and they'll take as long as they can possibly take. I tend to think that if there's some occasion the committee would in future like to do that, I would have no objection at all. I do think in this case it would be not only inappropriate, given the type of estimates that we're in, but there are some aspects to it that would make it very difficult. If you want to take up 10 hours, we can give them to you. We'll give you 10 inmates.

Mr. Ziemba: Can we set aside say half an hour, 30 minutes? We could invite a half dozen prisoners and give them five minutes each to express what they feel could be done to improve their lot or make the institution more humane or whatever. If they have anything constructive it would be useful to the committee, I'm sure.

Mr. Chairman: Is there any formal organization of the prisoners in that institution, such as the prisoners' association?

Hon. Mr. Walker: Yes.

Mr. Chairman: Would it be useful, then, if that association were advised by the clerk that we will be present and that if they wish either to talk informally or if they wish to hand something to the committee they're free to do so. Would that be the wish of the committee?

Hon. Mr. Walker: I'm wondering if maybe it might be a thought to have some or all of the committee meet with the president of the inmate association and he can act as a lightning rod for concerns and difficulties. I certainly wouldn't be upset by that; we're certainly open to that extent. It's just that I know if it becomes in the nature of a public meeting this will become an event and the event will become quite an entertaining period for a long, long time, I can assure you.

You're welcome to talk to anyone you want, let me assure you of that.

Mrs. Campbell: I would just like to make this observation: Through the offices of the Ombudsman, we have tried to protect in a confidential manner any discussions which have been had with people in institutions. I would hope this committee would bear that in mind if they embark upon this. There are problems which can arise if one doesn't observe something of that nature of confidentiality. We know the Ombudsman's staff themselves have run into some problems with people who were a little inexperienced, where some of the staff have been disadvantaged by statements made. I'm not taking sides at all, that isn't the situation, but I think there should be that caveat stated at this point so we don't have some kind of what could be almost bizarre happenings as a result of that.

Mr. Chairman: Mr. Swart, and then Mr. Sterling.

Mr. Swart: I just wanted to say that I support the idea of meeting with the president

or chairman, or whatever his capacity is, of the association. I think perhaps you should go a bit further than that. I'm not sure of the composition or whether there's an executive or not. I don't think we want to get into a public meeting there and have that time taken from our estimates. I agree with the minister, but I think we should go further than the one person. Is there an executive of three or five we could meet with? I think it would be very useful.

Hon. Mr. Walker: Well there's an inmate committee and it's made up in a representative fashion of people from various wings.

Mr. Swart: How big is that? If it is 20 or 30 it might get too large.

Hon. Mr. Walker: The inmate liaison committee has five members and that would be a convenient one. Mrs. Campbell has touched on a very valid point. I must say we always have some concern about inmates because many of them prefer to keep their presence anonymous. I'm sure some members of the press will be accompanying us. Although we have none here today that I can see at the moment, it's likely to attract some number.

Our experience tells us we must observe certain rules. For instance, we will not permit the filming of any inmate on a face-on situation unless that inmate has given prior written consent, because we feel he need not have his presence exploited to the world, particularly if he doesn't want it. We insist on those rules.

We also insist on some other rules that relate to security. You must realize we are not walking into a local meeting of the IODE; we are talking about a particularly serious area where we must protect people who are walking through, and at the same time we must protect the people who are there. Sometimes the presence of cameras tends to incite a form of riot, and we must, at all expense, avoid that. I would ask you all to bear with us in the observation of some of these requirements, appreciating that it is for the protection of the individual inmate and other inmates who may be involved in a bad situation, and the protection of yourselves as you go through.

Your security will be the responsibility of the local superintendent. I would expect you would do precisely what he says, as indeed I will do precisely what he says in terms of security. I would ask anyone who accompanies us to recognize that. So while our rules may on the face of them appear a bit arbitrary, let me assure you they've been bred through over a 100 years of experience. I have not made them coming into the ministry, they have been here and they have been validly used. I would ask you all to bear with us and share those rules with us.

Mr. Chairman: It might be useful, Mr. Minister, if prior to the trip you were to have a statement of some of those rules prepared, not only for members of the committee but for any members of the press who might accompany us. From previous experience in estimates the press rarely comes out in numbers, so I'm not sure there will be that many, if any, anyway.

Mr. Swart: Could you make available some place for somebody new like myself to this, a brief outline of the institution, type of criminals there, et cetera?

Hon. Mr. Walker: We'll do that, either on the bus going down or when we arrive in the reception area and we will be able to give you some picture of the layout.

We had in mind that you might like also to stop, because these are on the way, at two or maybe three institutions and just get a picture of some comparable places. I'm thinking of Maplehurst which is at the corner of Highway 401 and Highway 25. We thought we would stop there, maybe only for a cup of coffee, to see through a very tiny part of it either on the way down or on the way back.

[10:30]

Secondly, at the former Hillcrest Training School in Guelph, we have inmate labour doing an excellent job of constructing the wall, which is nearly finished. That will become the new Wellington Detention Centre and replace the old Guelph Jail, which is a dungeon-type facility.

Mr. G. Taylor: You can come to Barrie. The epitome.

Hon. Mr. Walker: Let me assure you that Guelph compares a bit with Barrie.

We would like you to take a look at those two—not necessarily in depth. I'm not suggesting that we spend an hour there; 10 minutes will give you the flavour of the building, in the case of the new Wellington Detention Centre. It's right on the way—right on the grounds, in fact—of the Guelph Correctional Centre.

Mr. Chairman: The other item to be decided is the amount of time to deduct from estimates time for the trip.

Mr. Sterling: I have a concern in terms of going to see this institution. I want to see the institution as it is run on a normal, everyday basis. I think that if we go in there with the idea of holding some kind of public spectacle, we will not see the institution in its normal light.

What I would like to do, theoretically, is walk in unannounced and walk through it, or be guided through, so as to really get a feeling of how the institution runs on a day-to-day basis.

Mr. Chairman: You don't really think, Mr. Sterling, that, having discussed this for half an hour in Hansard, you're going to make an unannounced visit on Wednesday, do you?

Hon. Mr. Walker: Considering who reads Hansard, yes.

Mr. Sterling: I think, by focusing on the public meeting part of it—I don't know how it might work—but it could take away from the impressions we should get from this visit. I just point it out as a potential problem.

Hon. Mr. Walker: I think that's a valid point. I think we can work out something to meet the interests expressed by Mr. Ziemba and, at the same time, provide us with a proper balance and proper security throughout.

We'd also like you to chat with members of the staff, correctional officers, and administration. That, I think, would provide you with a good balance through it all.

Mr. Chairman: We'll do this and we'll be governed merely by the time constraints you impose upon us. I would suggest we leave here, next Wednesday morning at 8:30, from the front door of the Legislature.

Mr. Ziemba: Before we leave that one point, Mr. Chairman, I might suggest another idea. Rather than have everything somewhat formal, with the president and his committee members appearing before this committee, perhaps we could have a coffee break and meet them informally. Maybe that might be better. It would deal with the question you raised, Mrs. Campbell—anonymity and all the rest of it. That's the reason we're going: to find out what life is like there.

Hon. Mr. Walker: I'd be happy to arrange that. I think we can accommodate that.

Mr. Ziemba: Instead of having them go on the record, or in Hansard, or anything else.

Mr. Chairman: Would it be appropriate at least to announce to the inmates' association that we will be meeting informally over coffee; that we hope they will identify themselves to members of the committee and chat informally? I think, if done in that way, it doesn't become a media event.

Mrs. Campbell: Or a structured event.

Mr. Chairman: Shall the minister take care of that, rather than the clerk? It may be easier to handle that way.

The other matter to be considered is that we do have 10 hours for estimates. The question we must answer is: how much estimate time will be removed in exchange for this visit?

Mr. Ziemba: Five hours a day, isn't it?

Mr. Chairman: We normally don't get five hours in in a day. We only sit in the morning on Wednesdays from 10 to 12:30; that's two and a half hours.

Hon. Mr. Walker: May I suggest that the time spent in an institution be recorded from the time you walk in the front door to the time you leave the front door, assuming you do leave?

Mr. Sterling: Will you guarantee us free access to the outside?

Hon. Mr. Walker: I'm going to tie everybody to a rope and lead them through.

Mr. Chairman: Perhaps I could outline to the committee some of the possible options. One of the options that is often chosen by committees when this kind of field trip happens is to subtract half of the time used by the field trip from the estimates. Another option is to subtract all of the time. The third option could be to subtract the time that is normally allocated for that particular session, with the understanding that obviously you're going to use more time because you have travel time there and back and also you may want to spend more time when you're there.

If we subtracted the time that would be normal for that session, we're talking about using up two and a half hours approximately of Wednesday's session.

Mr. Swart: I would so move that we subtract the normal time from Wednesday, even though we're leaving here at 8:30 and perhaps will not get back until the afternoon.

Mrs. Campbell: Oh, come on. You'd better come back and pay for your own lunch.

Mr. Swart: We're going to eat what the prisoners eat.

Hon. Mr. Walker: We will provide you with the same food as the prisoners get.

Mr. J. A. Taylor: You're going to get a good meal for a change.

Mr. Swart: I'll tell my wife you said that. I think that's reasonable. We are losing one session to do it. That's all the time we're losing, and it's a practical arrangement. I would so move.

Agreed to.

Mr. Chairman: We will subtract two and a half hours from the estimates, which is the normal time we would spend on a Wednesday morning on these estimates. Any other time is members' free time.

Hon. Mr. Walker: You'll have trouble being back by 1 o'clock.

Mr. Chairman: If we continue to discuss it, we'll have trouble finishing today's session by 1 o'clock.

In summary, the clerk will inform the House leader that we wish to travel to the correctional centre on Wednesday. Transportation will be provided by the Ministry of Correctional Services. The minister will advise not only the institution but also—I was going to say the tenants' association—the residents' association that we will be there and that we would enjoy meeting with them informally, if they so desire. We will subtract two and a half hours from the estimates time for that trip. Hansard will not be present on the trip. That's a summary of our decision.

Agreed to.

Mr. Chairman: I would like to point out to members of the committee that we are pleased to welcome into our presence some representatives of the Elizabeth Fry Society. All of you know about the outstanding work this association has done. They've kindly provided us with copies of their brief. I will ask the clerk to distribute that to you and to send that brief and literature in the mail to those members of the committee who are not present today. I'm sure we can welcome them here.

They might like to stand up in case any of the members wish to speak to them after the estimates at 12:30. Would you identify yourselves?

Ms. Hughes: There is just me. I am Wendy Hughes.

Mr. Chairman: I know Wendy from many years back. I'm sure her presence alone is the equivalent of the presence of multitudes.

Mr. J. A. Taylor: Don't forget your other former colleague, Ms. Sandeman. Isn't she with that society? I'm bringing that to your attention so that you don't lose sight of it.

Mr. Chairman: Elizabeth Fry has the habit of hiring excellent staff people.

Mr. J. A. Taylor: I was thinking of the very high status she has in that association.

Mr. Chairman: The minister's opening statement.

Hon. Mr. Walker: I propose to present to you today some comments, and have shown in the background a slide presentation which in many paragraphs touches on the relevant area. I will try to adhere entirely to the Deputy Speaker's comments that they be relevant. We will present these to you as an overview of the ministry; I know that with some 52 institutions, and when you count the CRCs, some 83 institutions, it is impossible for you all, I am sure, to have a full acquaintance of every place. We will try to give you some idea of what we are doing throughout the Ministry of Correctional Services.

I should mention as well that we have some additional presentations that may be of some use to you. They are each four or five minutes in length and relate to other matters that I will touch on at the end of the presentation. They enlarge upon the area that I will now present.

Each of you has received a briefing book which details the ministry's operations and cash flow for the coming year. In the next half hour or so, I would like to take you on a brief illustrated tour of the correctional system. We have, by the way, prepared detailed presentations on specific programs, should you wish to review them during individual votes.

Let me begin by sketching the size, complexity and resources of Ontario's correctional system. While the ministry is comparatively small in budget terms, it is geographically extensive and labour intensive. We maintain 83 physical facilities of one kind or another, in every region of Ontario. In fact, one of our institutions, the Monteith Correctional Centre is north of the Arctic watershed.

These 83 facilities include 40 jails and detention centres, two alcoholic and psychiatric treatment centres, two forest camps, one adult training centre, seven correctional centres, and 31 community resource centres which are correctional residences in a community setting. This is the Kairos CRC in Thunder Bay.

Each category of facilities serves a different purpose for different kinds of inmates. Jails and detention centres, for instance, stress maximum security in order to cope with the most hardened and dangerous individuals held for trial and until they are transferred to penitentiary. Many minor offenders also serve out their terms in the short-stay facilities.

Correctional centres and community resource centres, on the other hand, stress vocational and industrial programs in a disciplined environment for offenders who are serving terms of up to two years. In other words, we have a correctional facility that meets virtually every need in balancing deterrents and rehabilitation, from the traditional jail to the controlled home-like residence. Maintaining such an extensive and varied correctional network demands a substantial fixed overhead cost.

Beyond physical facilities, we have probation and parole services operating in 85 communities throughout the province. Running

such a varied and complex system requires a staff of 5,500 correctional officers and support and specializing staff in the jails and institutions, and probation and parole officers and clerical staff in the community.

I should note that women work as correctional officers in all phases of our operations, including male-offender institutions. Ontario has a professional and highly trained staff of men and women who serve as correctional and probation officers. These people are kept up to date on correctional methods through regular local seminars and training sessions. We have training officers in all our sizeable institutions, as well as training advisers who tour the system with workshops and instructional programs. We can discuss our staff training activities in greater detail later on if you wish. We have a very interesting slide-sound training program sample that you may wish to see.

[10:45]

Beyond the physical facilities and the staff, Ontario is fortunate to have a well-organized and qualified volunteer movement that works within our institutions and probation services. This year some 3,200 volunteers are actively involved in our programs. Collectively they provide more than 100 man-years of service. That astonishing service contribution is equivalent in paid time to more than $1,000,000 annually. But really there is no way of placing a monetary value on the skills and human qualities these dedicated people bring so effectively to the correctional system.

The ministry currently has 52 contracts with private agencies, which provide us with a range of services from probation assistance to the operation of community resource centres. About 4,000,000 of our $15,000,000 community service budget is spent on private agencies: the John Howard Society, the Salvation Army, the Elizabeth Fry Society, the St. Leonard's Society, the Fortune Society, M-2 and other smaller but nevertheless very important organizations.

How are the physical resources and human resources utilized to handle the people who become our clientele? In the last fiscal year more than 80,000 people came into contact with our correctional system. About 21,000 people were assigned by the courts to our probation services, which I will talk about in a few moments. That leaves some 59,000 people who enter the system through the jails and detention centres.

Last year about 1,200 men and women arrested for serious crimes were in our custody before being tried and sent on to federal penitentiaries to serve sentences, of course, of more than two years. A few were national parole violators, whom we also hold for short periods before handing them over to federal authorities. I am pleased to tell you that we recently reached an agreement with the federal government to recompense Ontario for the costs of housing national parole violators. The agreement is retroactive to 1975, and we calculate the recoverable cost for last year alone at $184,000.

This leaves just under 58,000 people who annually enter our 40 jails and detention centres, including 44,000 offenders sentenced to fines, probation and terms of less than two months. Jailed offenders also include, of course, the most difficult criminals who must be locked up in maximum security.

The basic difference between a jail and a detention centre is that a jail is an older building with mechanical security, such as the well-loved Barrie jail, the Lindsay jail or the Owen Sound jail. We inherited 35 county jails and two city jails in 1963 when the province assumed full responsibility for all correctional facilities. Many have been renovated to ensure they have the most effective security technology.

A detention centre, by contrast, is a contemporary building containing sophisticated security equipment and adequate program space to accommodate the more lengthy remands and terms to be spent there. Detention centres also have lower security space to serve the needs of community reintegration through temporary-absence programs.

We also have a tremendous turnover of people entering and leaving our jails and detention centres for short visits, which places quite a strain on these front-line facilities. Last year, there were approximately 2,800 people in our jails and detention centres on any given day. About 9,000 people are committed annually to serve their sentences, usually ranging from two months to two years, in one of the correctional centres. These institutions, which are minimum-, medium- and maximum-security classifications, offer a full range of training and rehabilitative programs.

Some offenders are sent to one of our two alcoholic and psychiatric treatment centres. Several hundred are relocated in our community resource centres. Last year on any given day we had about 2,500 people in these correctional centres and other specialized facilities.

What, though, do we do with and for these offenders? We no longer believe in having them sit around idly like this at the taxpayers' expense when they can be doing something beneficial to recompense society for their behaviour. This philosophy of putting

offenders to productive work and accepting responsibility for correcting their offences has had a remarkable effect on the disposition of our clientele.

In 1969 about one third of our customers were put in institutions. Nine years later about the same number of offenders were incarcerated but they represented only 16 per cent of the total correctional population, which almost doubled. The growth has been absorbed in community programs.

This trend is important. It has reduced the financial burden that would have been incurred by the taxpayer if we had continued to place offenders in institutional facilities. The trend has also produced important benefits in rehabilitating many offenders. When the sentenced offender is sent to us by the courts, our staff and qualified volunteers thoroughly examine his past record, present circumstances and future prospects.

There are several options in dealing with an offender. He might be transferred to a correctional or adult training centre to undertake an academic program, earning one or more credits from the Ministry of Education on completion of the required course hours. About one in five inmates are basically illiterate. Learning how to read and write has remedial advantages. It gives them the skill and self-confidence to cope with something as simple as filling out a job application form when released. In addition, we offer technical and vocational training opportunities at eight centres. An inmate can select among trowel trades, building maintenance, graphic arts, drafting, painting, decorating, welding, electricity, sheet metal work, carpentry, machine shop and auto mechanics.

In recent years we have provided training to help offenders apply for jobs, manage money and acquire other basic life skills. The aim is to prepare them for return to society so that they are better able to stand on their own feet, retain steady employment and act responsibly.

Of course we have parallel programs for women offenders who are sent to the Vanier Centre in Brampton. Over the next 12 months our female offender programs will see an increase of 40 beds in community resource centre facilities. This expansion will afford a much wider range of both geographic and program placements for the women offenders coming into our centres. Our CRC for native women in Thunder Bay has provided an excellent resource for a number of female offenders in the north.

Beyond academic, vocational and life skills training, certain inmates are selected for participation in our temporary-absence program. They leave our custody during the day to further their formal education or work for pay. Since temporary absence was introduced in 1969, the program has shown steady and impressive growth. The selection process is thorough. We want to ensure the inmate will benefit from this form of rehabilitation and self-care. We also want to ensure he is not a threat to community safety.

The temporary absence program has several benefits. The inmate earns money to support himself and his family, rather than abandoning them to the welfare rolls. He pays taxes. He saves part of his income. He even pays something towards his room and board. Beyond the financial benefits, he learns good work habits and self-responsibility. Since temporary absence was introduced in 1969, more than 82,000 inmates have participated in this program with a completion rate of 98 per cent success. The room and board paid by these people in 1978 contributed more than $120,000 to the ministry's operating expenses.

Other inmates are assigned to community work—shovelling snow, parks cleanup, cleaning up flood debris, assistance to the retarded and handicapped, and the like.

Mr. Chairman: Not in Etobicoke.

Hon. Mr. Walker: That's right. Last year alone, we estimate the community work done by some 2,000 inmates had a wage value of approximately $1,000,000.

Finally, other inmates, about 700 last year, participate in our various industrial programs. Our industrial operations produce more than $2,000,000 a year in revenue, including five successful money-making enterprises that are operated on a joint-venture basis with private companies. The private companies lease space from us and, for a fee, provide management and supervisory services. Correctional Services receives a share of revenues and provides the inmate work force, and the inmates receive the going market wage as well as job training.

One such venture is a ministry-owned abattoir within the Guelph Correctional Complex. Last year 240 inmates were employed in this meat-packing enterprise for periods varying from one day to seven months. They had gross earnings exceeding $436,000, out of which $47,000 was deducted for ministry room and board. The inmates paid $62,000 in income tax, $5,600 in unemployment insurance, nearly $8,000 towards CPP and, as the plant has a collective agreement and operates under such, $12,000 in union dues. The inmates also provided for their own families, with nearly $113,000 spent on

family support. They saved, on average, $634 each.

The plant at full production processes 1,700 cattle a week and operates as efficiently as any private facility. Meat is sold to most of the major supermarket chains. Your next steak could come from our abattoir and probably will.

Another successful, though recent, enterprise is our mattress manufacturing plant at the Mimico Correctional Centre in Toronto. About eight to 10 inmates make flame-retardant mattresses that are used by our ministry, as well as sold to senior citizens' homes, hospitals and other government agencies across Canada. Our basic product, which is used by inmates, sells for $37. The deluxe model, which has a spring core, is sold to senior citizens' homes for $57.

At the Maplehurst Correctional Centre we had a dozen inmates gainfully employed in making automotive parts, assembling muffler clamps, and manufacturing and assembling chiropractic and X-ray equipment. In the Brampton Adult Training Centre as many as five inmates were employed taking apart automobile engines and sorting out the metals for sale to scrap dealers.

Finally, we have formed a further partnership with private enterprise by inviting catering firms into nine institutions to provide total food services. These firms employ approximately 100 inmates, pay them wages and provide trade training.

The ministry also operates its own enterprises, such as the canning plant at Burtch Correctional Centre near Brantford, where inmates produce approximately 60,000 cases of canned goods a year. This year we are introducing a new product line—apple juice. In other centres, inmates produce snowmobile trail signs, government project identification signs, licence plates, picnic tables, barbecue grills, garbage cans, wool blankets, wool socks, pants, shirts, pyjamas, underwear and so on.

[11:00]

In summary, inmates in our correctional institutions are kept busy one way or another, in academic or vocational training, by working or attending school through the temporary-absence program, by providing emergency work services to the community or by being employed in our industrial operations. We do not believe in idleness.

The ministry also maintains 31 community resource centres which, as I mentioned at the beginning, are a type of half-way house. While our institutions provide a range of maximum to minimum security, the community resource centres are all of a minimum-security classification. Consequently, the inmates located in these residences are selected very carefully. The community resource centres have a province-wide capacity of 470 inmates. They are operated under contract for us by private agencies. All aspects of an inmate's life are closely monitored. Status boards track his work and travel arrangements. Strict accounting procedures are applied to his financial affairs.

Inmates located in these community centres are under our temporary-absence program. These residences are far cheaper to operate at $22 a day than a jail at $50 a day. As the working inmates pay towards their room and board, the cost saving to the taxpayer is even greater. CRC programs are demanding, and those whose school, work or general conduct slides are returned to the institution. We have found that the CRC setting is ideal for the ministry's program of encouraging many inmates to make restitution to their victims.

Basically, it works in this way. The offender, convicted of crimes such as breaking and entering, theft or vandalism is interviewed at the correctional institution. The screening process is the same as for the temporary-absence program with the added requirement that the offender must be willing to repay his victim.

Our staff consult the police to assess their views on the individual serving his sentence in a community setting. Ministry staff contact the victim, explain the restitution proposal and suggest a meeting with the victim. Not all victims are prepared to go that far. But we have found an encounter between offender and victim has a tremendous remedial effect. It literally brings the offender face to face with the consequences of his past actions.

The offender is transferred to a community resource centre and is helped to find a full-time job. He is placed on a strict budget, which is itself an important correctional measure as many offenders just do not know how to handle money. Typically, an offender earns about $120 weekly. He pays $35 a week towards his room and board. He receives about $20 a week living allowance. He is required to save between $20 and $30 a week, and pays his remaining $25 to $35 a week to the victim of his crime.

Between 1975 and the end of last year, nearly 350 offenders participated in the restitution program. Collectively, they made full or partial restitution of close to $110,000 to their victims. Of course restitution does not work for all offenders, but in my view any program that encourages many young people to assume personal responsibility for

correcting their own crimes is truly worthwhile.

Restitution reduces the taxpayer's costs of maintaining correctional institutions and restitution individualizes the crime and the sentence. It helps prevent first-time offenders from perceiving the criminal justice process as some form of impersonal system in which he is merely an unlucky participant.

From our point of view, the temporary absence program and the restitution program are more effective than giving an offender an intermittent sentence. A key reason is that by having the offender return every night to a community resource centre, we can supervise his behaviour and do a better job of ensuring his successful rehabilitation.

We have found that offenders serving weekend sentences do not, in the main, take their sentences seriously. Many of them are neither employed nor going to school. Almost one third have outstanding charges at the commencement of their intermittent sentences.

A sudden influx of intermittents on Friday nights also creates staffing problems, additional overtime, disruption of programs, overcrowding and security problems. Too many intermittents arrive drunk on Friday evenings and are responsible for a significant proportion of the drugs brought into our institutions.

Of course the intermittent sentence is a useful means of dealing with a few special cases, but we believe temporary absence in a CRC setting serves the same ends as an intermittent sentence, but more economically and more effectively.

Let me now talk about the people who are sent to us on probation orders. In the past 10 years, the average daily population count of offenders on probation has risen steadily. Since 1972, when probation services were moved from the Attorney General to Correctional Services, the growth has been extremely rapid.

Your Ministry of Correctional Sevices currently operates probation services in 85 Ontario communities. Last year, nearly 21,000 people were added to the probation rolls, which at any given time have about 30,000 offenders under the supervision of our probation officers.

We have found that the conditions a judge attaches to a probation order can literally make the difference in the successful rehabilitation of an offender. For example, a judge can require the offender to pay restitution to his victim as a condition of probation. He can even order a face-to-face meeting between offender and victim. Our evidence shows this has positive results on the offender's behaviour, despite initial reluctance to participate. Usually a probation officer or trained volunteer acts as the intermediary.

Since 1974 some 200 offenders and 250 victims have been brought face to face in the Kitchener area alone, with satisfactory results, under a reconciliation and restitution program launched by the Mennonite community there.

The court can also remand the case so that the three parties—the offender, the victim and the intermediary—can get together and come to an arrangement for subsequent review and approval by the court. Normally, the offender makes direct payment on a regular basis to the victim, preferably in cash, as this has a positive psychological effect. Where problems arise in the offender-victim relationship, payment can be made through the court.

Another approach towards conditional probation where judges have been inventive is in issuing community service orders. These orders are particularly effective in solving a problem we have with many minor offenders who receive short sentences—the ineffectual use of their time. Nearly half the sentences are for fewer than 30 days. But we can't teach somebody a trade in a few weeks or even a few months, let alone motivate him to improve his education or job skills.

Often a short sentence will preclude the offender from being transferred to an institution which provides specialized longer-term training. As I mentioned, the offender with a short sentence usually spends his time in a local jail or detention centre.

The community service order is a creative alternative to placing minor offenders in jail at a $50-a-day cost to the taxpayer. It is also effective in requiring these people to accept some responsibility for their anti-social behaviour by making repayment to the community or the individuals harmed.

Under this program, the judge can require an offender to complete a specified number of hours of community work in lieu of a jail term. The time logged by these offenders varies from eight hours to as much as 600 hours, though the most effective tend to fall within the 50- to 150-hour range. Each community service order reflects the severity of the crime as the individual judge appraises the situation. Many judges have become keen supporters of the CSOs as an alternative to the traditional jail sentence.

During 1978—our first year's experience with the program—nearly 1,000 offenders were placed on CSOs. That is 1,000 people who might otherwise have been sentenced

to a correctional institution. As it cost up to $20,000 per offender per year to serve time in detention centres, one can readily see the savings to the taxpayers have been simply staggering. In fact, at this moment there are almost 1,000 CSOs actively engaged.

The ministry has an effective monitoring system to ensure offenders do deliver the required community service. This process begins with the offender signing a written agreement to perform the duties set for him by the community placement agency. The offender is assigned a work card on which he must keep track of his hours and assignments completed.

Your ministry has organized arrangements with individuals and volunteer agencies in 13 communities where CSOs can be fully supervised, with 12 more communities planned for inclusion this year under agreements with private agencies. However, community service orders are being used increasingly by courts throughout Ontario. That's a trend we would like to see continue.

We have had an extremely good track record with offenders placed on these types of community service orders, thanks again to the co-operation of so many judges. Of the 1,000 assigned to community work last year, only eight failed to fulfil their conditions of probation. Of these, seven were subsequently jailed for breach. We estimate that 43,000 hours of service performed for various communities by these offenders on probation has a minimum wage value exceeding $130,000, and that is community service that would not otherwise be done.

What does a CSO achieve for the offender? He acquires a more responsible attitude. He develops his skills and abilities. He spends his time more positively. He keeps his job and makes new and more appropriate friends. And most important of all, he learns first-hand that there are many people worse off than he is. The remedial benefits speak for themselves. We are less likely to see the individual in the system again.

Let me conclude by outlining new initiatives being developed by the ministry. When I asumed responsibility for this ministry in October, I was alarmed by the number of inmates serving time while awaiting their trial. On any given day, approximately 1,300 inmates in our provincial institutions are people on remand. In fact, they represent nearly one quarter of our total inmate population count.

Of the 1,300 people on remand, more than 48 per cent were eventually released within seven days. About 70 per cent of all remands were eventually released without being further incarcerated. In other words, when you sort out the statistics, there are approximately 900 remand inmates on any given day in maximum-security institutions who are ultimately released.

Let me stress that I am not talking about dangerous people who must be locked up while awaiting trial. I am talking about an estimated 900 people who are in jail on remand charged with minor offences. Most of these remand situations result from initial appearances before justices of the peace.

As you can see, we do have a problem. For one thing, we can't afford the high cost of accommodating them. The taxpayers of Ontario are spending upwards of $16,000,000 a year to provide facilities for accused people who are eventually released before or after trial. The fact is these people need not be in jail at all if adequate and more economic alternatives exist.

Following discussions in the past three months with the judges of Ontario, Correctional Services is introducing three forms of supervised bail as an extension of its probation and parole services.

First, supervised bail for accused people who can live at home with the family while employed or in school full-time. These people are least likely to skip bail. We estimate this form of supervised bail would cost $2.74 per accused per day, or one eighteenth of keeping an accused unnecessarily in jail.

Second, supervised bail for accused people who, lacking a fixed address but requiring only minimum supervision, can be placed in ministry-approved lodgings. The accused would be found a full-time job and expected to pay for his own room and board. He would be placed in the home of someone known to us as being reputable and of good character. Only one accused would be placed in any one lodging at a cost of $7.50 a day per person to the government.

Third, supervised bail for accused people who, requiring the greatest degree of supervision short of institutional custody, can be placed in bail hostels. In the immediate future we will utilize any spare space we have in our existing CRCs, which, as I explained earlier, are a type of half-way house in a community setting run by experienced community organizations. These residences provide accommodation with definite rules, including regulations on drinking, drugs and curfews. The accused located in a bail hostel will be required to work during the day, pay towards his room and board, and return to the community resource centre in the evening.

These supervised bail programs are being tested on a pilot basis both in our probation and parole service and under contract with private agencies in Hamilton, Whitby-Oshawa, St. Catharines, Kitchener, Sault Ste. Marie and London. When we have had an opportunity to evaluate the success of these six supervised projects, we will consider offering the three basic alternatives to all court jurisdictions in Ontario. Experience with supervised bail programs in British Columbia and the United Kingdom suggest that the "failure to appear" rate will not be a serious consideration at all.

The three supervised bail options represent a major initiative in correctional services. Their success depends on their acceptance and use by the judges, justices of the peace and crown attorneys in the six pilot communities. If supervised bail is used to the degree we think is justified the benefits in reducing our permanent jail population will be significant.

Looking further ahead, the ministry has under consideration the provision of parole hostels so that a greater number of suitable candidates can be directed to these facilities by the Ontario Board of Parole. Not only will parole hostels enable suitable inmates to be released earlier, but we can work more effectively with them to facilitate their integration into the community. Eventually we anticipate that our community resource centres will have a mix of occupants, including inmates on temporary absence, parolees and remands.

Finally, under our new initiatives the ministry is examining ways in which the correctional system can do more to assist people through the trauma of being victims of crime. Corrections is an integral part of the justice process, but it seems to me we focus all our resources on doing right by the wrongdoer and little to preserve the rights of the person who is wronged. The restitution programs I outlined earlier are a start on correcting this imbalance, but I feel strongly we must do much more to assist victims of crime.

Only one in four families or small businesses, for example, have insurance coverage against the financial losses of vandalism or theft. Typically, a family whose home is ransacked and burglarized faces great inconvenience and stress in cleaning up the devastation. Then they have to endure the experiences of a police investigation, answering a subpoena and appearing in court as witnesses. For many people the criminal justice system is truly intimidating.

We are examining ways of helping victims of crime through this distressing period of time. The volunteer movement, which has proved an invaluable strength to us in our various correctional programs, has the capacity to help with emergency counselling, for instance, as well as contacting relatives, friends and employers of victims.

As for the cleaning up of the mess that is left by many crimes, I would like to use the inmate population as a community service assistance squad. After all, many minor offenders would benefit from seeing firsthand what a breaking and entering job can do to the emotions, property and privacy of an innocent family. Lending a helping hand might do much more for offenders than simply cleaning up the mess of another criminal.

In summary, the Ministry of Correctional Services has launched many new initiatives and is currently developing others. The major emphasis is on community operations for the non-violent offender. This expansion into community programs has wide-reaching and dramatic implications for the staff of the ministry which should be understood and appreciated.

As the courts make wider use of community service orders, restitution and bail supervision, and more offenders are given opportunities to work at gainful employment on temporary absence or parole, the correctional institutions are being left with a residue of problem inmates.

Increasingly, institutional staff must contend with the most difficult offenders, including the violent, the assaultive, the unmotivated and/or the career criminal who has no desire to change his antisocial behaviour pattern. This increases the stress and the demands on the front-line staff—the correctional officers —as they strive to meet their dual role of maintaining custody and acting as humane, helping agents in the rehabilitative process.

At the same time, the tremendous expansion of community programs has placed new pressures on our front-line field staff—the probation and parole officers. Their workload has increased dramatically, and they have had to find new ways of meeting these demands.

In both instances, staff have tackled the challenges which face them with determination and dedication. I am extremely proud of our staff, whose efforts and devotion in a very difficult field of endeavour rarely receive adequate recognition and credit from the public on whose behalf they work.

As evidence of the special recognition which we believe is deserved by staff who work in the very difficult and demanding

field of corrections, I would draw your attention to the recently announced tentative agreement between the Ontario government and the Ontario Public Service Employees Union. In addition to the average salary increase of six per cent applicable to all occupational groups, this tentative agreement provides for an additional increase of two per cent for the institutional care and corectional services group. This is not the first time that such financial recognition has been given. You may recall that in 1975 correctional officers received wage increases of 23.5 per cent, which was more than any other staff category.

I have given you a brief sketch of the programs and projects the ministry has undertaken and is planning to begin. Our objective within the ministry is to continue and accelerate the long-standing use of community service options for certain offenders.

We fully recognize that there will always be a criminal element that deserves no alternative to the traditional jail sentence. And we are not rushing blindly into daring new ventures. The departures from traditional correctional services have been a process of steady evolution.

We want to make sure that what we do benefits society, the offender and, most of all, justice.

Mr. Bradley: Mr. Chairman, first of all, in commenting on the presentation, I was rather pleased with the approach the minister took today in giving us considerable background on the ministry and a good overview of it, complete with the audio-visual display. The minister mentioned this particular approach to the opposition critics some time ago. I think it is often more valuable than the traditional approach that is taken.

Having gone through the estimates a couple of times as the critic for Correctional Services, this being the third time, I should be forgiven if I stray slightly from the contents of the Correctional Services estimates to say that the opposition critics—and I would presume this would be the case in other jurisdictions—still feel the futility of watching the minister go through them with a large staff to provide him with all of the material he needs, to provide him with every bit of information he requires and to write what he is going to say, if that is necessary, although in this particular case the minister is very familiar and I am sure doesn't require that.

The point I am making is that tremendous odds are stacked in favour of government at any particular level and that members of the opposition feel frustration at times of this nature at not having the same amount of research available to them—and there have been commentators on the political scene who have made this comment several times. Also, individual members have other obligations to carry out. So it stacks the deck tremendously in favour of the minister and of the government.

We are fortunate in Correctional Services, however, that we have had access to information, both through the last two ministers I have dealt with, who have been more than willing to provide the information that members of the opposition have asked for, and through the staff, who have always offered either to provide a formal briefing or any information we need.

This is certainly beneficial and a step in the right direction. However, the situation remains that the amount of independent research that can be done by opposition members in dealing with estimates is still extremely limited. As one of the political commentators mentioned in a newspaper column, we are still glorified social workers as individual members. A lot of time that we spend on duties other than legislative is still disproportionate in terms of the fact that we have to look at the consequences of not doing so.

Having said that and having mentioned as a balance the fact that we have had the co-operation of the ministry, I would look at the final comments of the minister, which I think are important to underline, even through the innovations that have taken place. Although we like to feel that with the access we have to other information and with the access we have to people who have been involved directly, either as employees of the ministry or as volunteers, so that we can take a more progressive and objective outlook in the Correctional Services system, we still get down to the basic fact that the public sees that those who come to the attention of and are in the care of the Ministry of Correctional Services are not there by invitation.

They are there because they have committed some crime against a person, property or society. Ultimately, there are people within the system, as the minister has pointed out, who cannot be rehabilitated, even although our goal must be rehabilitation at all times. That has to be a goal we strive for. The money that is spent within the ministry should be channelled largely in that direction. Nevertheless, there are going to be those, more so probably within the federal system than the provincial system, who are going to be deserving of—perhaps that is the wrong terminology, but I will use it—treat-

ment that we wouldn't consider necessary for regular people within society.

[11:30]

We look at the structures that are now being constructed. I realize that in the supplementary estimates Mr. Ziemba mentioned the fact that he was concerned that any new institutions would be built in Ontario at the present time, when the thrust should be towards alternatives to incarceration. Certainly we won't find many quarrels around this table today about the fact that we should be moving away from incarceration and that Canada as a whole has had a record in past years of being more inclined towards incarceration than many other jurisdictions, outside of North America particularly.

Nevertheless, I feel the construction of institutions to replace other institutions can be justified in certain circumstances in that there are always going to be, as the minister points out in his final remarks, those who are going to require confinement to an institution and so if we are as opposition critics going to call for the elimination of some pretty archaic and dismal correctional services centres, old jails, and particularly in the older towns and cities, then we have to have some alternative in terms of a place for incarceration. As long as we don't get into a large-scale building program, and I think that's the concern we should have, I think we have to have at least some of those institutions and replacements for those institutions.

What the public is concerned about, as I see it, and it's a hard problem to deal with I realize, is that the public sees some of the institutions as country clubs. If you're going to move towards rehabilitation, or at least if you're going to see rehabilitation as your ultimate goal, we're not going to be able to construct prisons as we did in years gone by, as dungeons or as places you went to because you were bad where somehow, if you sat there for hours on end for perhaps months, in our case under two years, and you recognized what you were getting into by committing crimes against society, you would never return.

I think all of us around this table recognize that it is not the answer and that, indeed, people will return. That means the ministry is in the position, as it has been in the last couple of years, where I think it has particularly dramatized the fact that Correctional Services wants rehabilitation even though those of us in opposition sometimes feel we're not moving fast enough in that direction. We have to convince the public of this, because I'm not in a position now of seeing the public viewing Correctional Services as anything other than pampering criminals. It is a selling job.

The last minister, who was very glib and had the ability to get headlines and to dramatize the works being done by his ministry, provided a service even though there may be motives other than just providing a service for the ministry. Nevertheless, he did provide a service in that he made people look anew at the programs available. As well, you've had representatives of your ministry who have gone out into the public speaking to service clubs, speaking to various organizations, speaking to the media and pointing out the ultimate benefits of the programs that we in opposition have advocated for years and that you in government have now adopted as being meaningful and useful—I'm sure with the co-operation and the spur of your ministry employees.

I am pleased, and I know members of the caucus of which I'm a member are pleased, with the thrusts that we see, with the graphs that we see on the screen indicating you're moving rather rapidly towards alternatives to incarceration. We are particularly pleased that the minister has seen fit—and he has been criticized; I can recall a political forum I attended where one question was asked and the answer that was sought was one to be critical of the minister for meeting with members of the judiciary to discuss community service orders and other methods of sentencing which would be an alternative to incarceration. The question was actually for me, but recognizing that I would have to agree with the minister I allowed another individual to answer that, because I do agree that the minister's responsibility is to keep in communication with the other areas of justice.

We have a Justice policy secretariat, which hopefully tries to bring together Correctional Services, the Solicitor General, the Attorney General and those aspects of Consumer and Commercial Relations that belong in the legal system. There's some kind of co-ordination there and unless the minister can communicate with those in the judiciary indicating the problems his ministry has and indicating what some of the solutions might be and how they might benefit the community as a whole, it can't be successful. Unless the minister has that prerogative and has the support of others in meeting with them, then the program can't be successful.

Rather than being critical of the minister in that regard, I would compliment him on that dialogue with the members of the judiciary.

I think it's easy to concede that much of the roadblock to the success of this program could lie within the types of sentences that can be given by judges as opposed to any feet-dragging by members of the ministry itself.

We in the opposition recognize the benefit of the community service orders particularly with the emphasis on vandalism and crimes allied to vandalism. We recognize the benefits to the community. The minister in the House the other day during a supplementary estimate indicated that if you wanted to cost it out you might get close to $1,000,000 in terms of certain benefits to the community that are provided by people who have been in some way or other sentenced to do something within the Correctional Services system.

We look also at the savings in the real cost of incarceration. This is one thing that's communicated far better to the public now than in the past. The critic for the New Democratic Party, Mr. Ziemba, has dwelt on this in past estimates. He has been very successful, I think, at pointing out to the public the real costs of incarceration, not only in terms of the dollars and cents but in terms of the effect on human beings who are incarcerated but who might otherwise have other areas of responsibility than being confined to an institution. Moving in this direction is a saving to the community in direct and indirect terms.

The community service orders also benefit the inmates. I think we recognize that. Your presentation, Mr. Minister, has made it pretty clear to everyone, and I think we recognize this, that the inmates themselves can feel they are doing something useful for the community. In many cases, this is the first time they've had this opportunity or been invited to do so, albeit the invitation is a requirement with an alternative which is perhaps less desirable for them. Nevertheless, it does place them in a position, for the first time, of being able to perform a service of this kind and perhaps they gain somewhat in self-esteem at being able to participate in community life in this way. It's a payback as well to the community for the "service" that is provided by Correctional Services to them whether it be in terms of a dwelling place or other services provided by ministry officials.

We've been pleased with, and would like to see accelerated, as I'm sure the ministry would, the community resources centres. In your presentation, Mr. Minister, you've indicated with your new initiatives there are new uses you see for the community resource centres. In the past, when you first started them up, perhaps initially we didn't use them for those purposes. I'm happy to see they are, because they're less costly than institutions, we all recognize that, and they allow the kind of flexibility and the kind of contact with the community which is essential if we're going to have some form of rehabilitation for those who come before your ministry because of crimes they've committed.

The temporary-absence program has been in effect for some time now. I diverge a bit when I talk about the temporary-absence program but I'm interestd to see this is now being looked upon as superior to intermittent sentences. I can only agree that while the intermittent sentences were a good idea in the first place, they're really not working out. They are a real and genuine problem for the institutions, most particularly your personnel in the institutions, and ultimately those who are confined to those institutions, in light of the fact that many, as you have pointed out and we've seen pointed out before, simply don't take them seriously. They come in conditions, drunken or otherwise, that are not necessarily conducive to the smooth operation of an institution. There is the possibility of smuggling various goods in and out.

I think those kinds of technical problems —in theory we don't like to talk about them, but they are practical problems that militate against the use of intermittent sentences and more towards the use of the temporary absence program which can, at the same time, use the community resource centre as a dwelling unit. You avoid the incarceration. You do have some kind of confinement and some kind of supervision, except that the person is allowed to continue working.

We all emphasize the importance of that person continuing to have some kind of job. I think that was one of the main reasons for intermittent sentences: to allow a person to retain employment in the community or with his employer and still be able to have some kind of earnings, not be on the public dole, so to speak. If we can do that through the temporary-absence program, utilizing the community resource centre as a dwelling unit, then we are achieving the same thing, but we are doing it without the practical problems that exist with the intermittent sentences.

The innovation the minister has mentioned in Correctional Update, his January-February 1979 issue—and he alluded to that—deals with those on bail. We have always heard that remand people are difficult people in that they provide difficult circumstances for the personnel of the Ministry of Correctional Services. The figures you have used have

actually been somewhat startling. You talk about 48 per cent of them being released within seven days and 70 per cent of them receiving no further incarceration, and that many of them are in on minor offences. This gets back to the question: What are they doing in there in the first place and how do we avoid this problem? How can we find new initiatives to avoid this?

The pretrial program, or as you call it, the bail supervision program, is a reasonable initiative. When the justice committee dealt with its last bill having to do with provincial court procedures, we had representatives of the Quakers before us who talked about certain related problems, and who pointed out there was a good possibility of supervision of people who could be released on bail and who in the past weren't. Once again, the public doesn't like this. The public automatically assumes that you are guilty once you are in jail. I'm afraid that at least a large portion of the public automatically assumes that. They didn't like the federal Bail Reform Act, which in essence supposedly brought about a circumstance where everybody would be treated equally before the law. In other words, whether you're the son of a millionaire or the son of a person who perhaps is receiving public assistance, you would be treated in the same way in terms of your ability to be released on bail. The public reacted adversely to this, because there were instances where it wasn't successful, and those are the ones that are always pointed out very quickly.

However, with the kind of supervision we're talking about—first of all, there are many, I would conclude, as the ministry has, who can be supervised within their own home environment. There are others, reputable people within the community, who are prepared to do volunteer work and who are, at the same time, able to supervise them. I think of religious groups, for instance. I think of the John Howard Society, the Elizabeth Fry Society, and others. I won't list the long ones; you've gone through them. They are able to assist in this regard. I wonder if the entire program couldn't be handled by volunteers rather than by ministry staff being involved to any great extent.

I see this as being a very positive direction, particularly in the light of the fact that when the member for Scarborough Centre (Mr. Drea) was minister he lamented the fact that he had so many remand inmates confined to his institutions. There were the costs, of course; once again, you pointed that out. The public looks at costs now; it doesn't simply look at it in human terms. You have to sell it to the public, both in terms of the ultimate cost to society and to the taxpayer and also in human terms. The costs, as you have pointed out, are considerably less—the $2.74 a day, for instance, in the person's own home, and so on.

[11:45]

We in opposition see that as being positive. We have asked for these initiatives in the past, and we are happy to see that you have moved into this area.

We look at the total perspective and see that there are many short sentences and many people who are there paying for parking tickets, as Mr. Ziemba has mentioned in the past. These people must pay something to society. But I'm not convinced that you should throw them in jail. Ultimately, that may have to be done, but it has to be the very last resort we look at. Once again, we come back to the fact that there are alternatives to incarceration that should be explored for those who are serving very short sentences and for relatively minor offences.

I look at, and I clip from the newspaper from time to time, the pronouncements of the new minister. I noticed a Toronto Star article of March 27, headlined, "Minister Asks More Jail Work Programs." This is one area where I would again express a little concern. Generally, I agree with the minister that to have people sitting idly by is bad for the inmates themselves—we now are talking about people who are confined—and it's a drain on the taxpayer as well. We look at that and we ask: "How can they earn their way? How can they reduce the cost to the taxpayers? How can they benefit from work programs?" We must try to balance that against the fact that we have pretty high unemployment in this country and in this province, and wonder in the back of our minds if we aren't then competing with those on the outside.

I recognize that I'm going to quote out of context from this article, and the minister will recognize that I'm quoting out of context; in his rely later on, he may want to elaborate. One paragraph says: "Walker says his ministry will consider any proposal from companies interested in leasing space and providing employment for inmates, especially those firms which can deliver parts to a detention centre for assembly and manufacture."

I realize that we're into this to a certain extent now. My concern would be this: Are we looking at companies which might otherwise employ people on the outside at something significantly above the minimum wage, paying benefits that would be greater than benefits paid to inmates; and should we be encouraging them to use inmates when they

might otherwise employ people in other areas? I think we have to look at that carefully, and I'm sure in his elaboration the minister can point out what the ministry's criteria would be.

At Guelph we have a situation where it's acceptable. I think we recognize it's acceptable. But I would be a little concerned at how much competition we're getting into there by using inmate labour as opposed to the regular work force. We'll have to look at that carefully. I know that Honourable Mr. Drea, as minister, placed a good deal of emphasis on consultation with the labour union movement and received, I must say in commendation of the labour union movement, a lot of co-operation in that regard. Generally speaking, the labour union movement has been very progressive on that particular issue. I think that consultation has to continue in view of the present economic circumstances in the province and in the country.

We expressed—and Mr. Ziemba moved an amendment during Bill 85—a concern about one aspect of Bill 85, section 9, which dealt with supervision of volunteers by ministry employees. It seems to me we were in the month of December at that time and a lot of things were happening. The amendment was worded in such a way that the other opposition party couldn't bring itself to support it. There was a lot of misunderstanding at the time.

I won't come out with any accusations, but I understood from listening to the minister that consultation had taken place with, to name two of the organizations, the John Howard and Elizabeth Fry societies. I was given the impression, or at least I gained the impression—let me be charitable and say I gained the impression—that the co-operation and acquiescence of these groups had been gained in this particular provision of Bill 85. Subsequent to that, I found that was not necessarily the case.

The minister has been approached on this problem and I understand has had extensive discussions—I have had discussions with the minister on this. I am led to believe now that problem, at least by memorandum or regulation, has been overcome and that when the opportunity presents itself in the future it may be completely overcome by deletion from the act of that provision.

In their representations to me and to others within my caucus, these volunteer groups expressed opposition to this—philosophical opposition and in principle—as opposed to looking at necessarily practical problems, and the eroding effect this could have on the willingness of volunteers to participate in this aspect of societies' work if they felt they were to be overly supervised.

I am happy that the minister has moved in the direction of alleviating this problem. Perhaps later on in the estimates he might discuss in some detail what action he has taken so we can all be assured, both the public and private sectors, that this indeed has taken place. As you have pointed out, the volunteers within the correctional system have played a significant role just as your ministry employees have. You have given them that credit, which is good. However, I think the most credit you can give them is the kind of trust you can place in them by removing the volunteers from the supervision of ministry officials. That is even more important than the words of praise we can heap upon them during the estimates.

I noted the member who represents Barrie has been here for a lot of the estimates, although he is not here right now. He will no doubt want to discuss the Barrie Jail with you at some length. Some actions have been taken there that are positive, and some continuing actions. And the Sault Ste. Marie Jail, particularly during the by-election, was a topic of much discussion.

We know that certain problems continue to exist, but rather than specifically dwelling on those in my opening remarks, I will just ask that the minister update us in some detail on those spots which have been identified by members of the opposition, and indeed by people from his own ministry, as being difficult spots or trouble spots, and just what actions are being taken to alleviate those problems. We recognize what some of the problems are with the older jails; also, the Toronto West Detention Centre has been the subject of some controversy, and we know that certain actions have taken place there. There might be some elaboration on that.

I realize it doesn't relate directly to your ministry, but let me ask you this question and receive an answer from you later on: We have had the suggestion made about scare tactics and it has been dramatized through television and through the newspapers. I recognize the inmates you have within our institutions here in Ontario are not necessarily the ones that are the best educators—but we have heard of the program—New Jersey is the best example of it—of using scare tactics to suggest to young people, particularly juvenile offenders, that incarceration in the prison system or involvement with the prison system is something not to be desired. I wondered what, if any, involvement your ministry has had in the discussions.

I note there was a comment from the Minister of Community and Social Services (Mr. Norton) that there had been some discussion at least. I would like to know if your ministry has been involved at all and what the comments have been. I'd like to know what value your ministry officials see in this tactic, if any. I recognize you are probably talking about the federal prison system when you talk about the kind of hard-core people who might be able to provide this so-called education.

Another area I'll ask you to comment upon is one I didn't see it in the estimates, oddly enough. The previous minister indicated there would be a saving of $10,000,000 per year as a result of the ombudsman's office becoming involved. I looked through and didn't find the $10,000,000 saving. I thought you might want to comment on the saving the ombudsman's office is providing for your ministry.

Hon. Mr. Walker: We expected our estimates to be another $10,000,000 this year.

Mr. Bradley: I see, so that's where the $10,000,000 went. That's probably understandable.

You might comment anyway on the ombudsman's office and its continuing effect. I know there are certain comments within the notes but I would like to get your personal view on this.

Another thing we in the opposition consider important—and no doubt your ministry does—is releasing people from the system to some kind of job. Unfortunately, some are now released and within days they're on welfare, which really doesn't produce much for them. I think there's been a lot of progress made in this area through ministry officials themselves and, importantly, through volunteer agencies in providing employment opportunities for people. But there are still some who, when they come out of the system, end up on welfare within a very short period of time.

The channelling of our efforts towards the provision of skills to these people, when they're confined to institutions, is useful. I guess this is why Mr. Ziemba and I expressed a lot of disappointment with the circumstances that arose at Glendale, which was very expensive to operate, but we felt in our visits there it was a very successful institution. It provided people with the kinds of skills we wanted to see them have when they went back into society.

The actual finding of jobs for these people, employment positions, and equipping them to handle employment circumstances is a major part—as I'm sure you see it, Mr. Minister—of the work of your ministry and those who work either through contract or otherwise with your ministry.

I found your victim-witness assistance program interesting. The restitution part is very valuable, if there's co-operation on both sides and is something you're not forcing upon the victim. I think that has a lot of potential if the victims are co-operative. For the person perpetrating the crime, to understand the consequences and see how this can be repaid, I think, is a good part of it. The counselling may be as well.

There's some other problems. You talked about having people, through community service orders, coming from institutions to clean up the mess, so to speak. I don't know how that's going to work out. Maybe the people who have been victims of crime would see this as an opportunity to case the joint, so to speak. I have a little bit of doubt about that.

We recognize that any of these initiatives are going to have bugs in them and some chances are going to have to be taken. As long as the consequences for the community at large are not dire I think it's worth the chances we take, not only to save those who have committed the crimes, but ultimately—we once again come back to ultimately—to benefit society.

I understand there are some problems—and I will get into a little bit of detail here. I would be interested to hear about a letter you received from the executive director of the Elizabeth Fry Society and one of the problems was section 9 of Bill 85.

There is another problem I would ask you to comment on, particularly in the light of Mr. Drea's June 14, 1978, comment: "We don't want to get into the position where you"—the inmates—"are paying for the cost of your supervision. That is a public responsibility. I don't want to get into the systems they have elsewhere in the world where you're paying for some of the supervision. That's our responsibility."

The problem being brought up at that time by Ms. Sandeman was the fact that they had great concern that the regulations proposed for Bill 85, the Ministry of Correctional Services Act, would include a weekly parole charge of $25 to inmates. I won't read the letter into the record as you have a copy of it, but I would be interested in your comments on the submission that was made on that specific problem.

[12:00]

I also understand that there is a certain problem with some of the—let's call them half-way houses in Metro and the occupancy

rate. I understand that there is a very low occupancy rate for these facilities in the Toronto area and that this might be causing a rather significant waste of money. The contracts with each facility, as I understand it, were such that the ministry pays for a certain minimum number of beds, whether or not they are occupied. Our researcher made a call to the ministry to find out what the occupancy rates were.

Interestingly enough—and again I will ask for your comments on this—it seemed that within a couple of days of that call there was a sudden rush of admissions in order to fill up these community hostel-type institutions. I would like to ask for the record of occupancy over the last several months for all of these places in Toronto so that we can look at the fluctuations and see what might have caused the fluctuations in occupancy and can be assured that it wasn't our telephone call that caused the dramatic increase in occupancy.

I also understand the Ministry of Correctional Services is negotiating with Viking Homes to use some of those establishments. It seemed to me that the Ministry of Community and Social Services has had some difficulty in this regard and that makes one wonder why the Ministry of Correctional Services would want to get into that situation. Viking Homes, as I understand, is a profit-making institution.

We are also concerned to a certain extent that the operators of these hostels know exactly what are the requirements of the job and what they are doing. Many of the people receiving care are in need of some specialized attention, especially in the field of alcoholism. It seems to us that there ought to be at least some minimal accreditation of the operators, including a training program. Three things they should be trained in are administration, counselling and program organization.

The community centres have been open now about four years. We would be interested in the recidivism rates at each one of them. We recognize that you can probably give us the rates for all of them in total, but I am interested in the individual rates at individual centres, since we might be able to learn something from the individual rates by comparing the more successful with the less successful centres. I would hope to get that information from you at some time during these estimates, today or whenever.

I think I can bring up the other problems that exist during the specific votes that take place because I will get into the specific occupancy rates. I notice Bunton Lodge is six out of 15; Madeira House, nine out of 15; Sherbourne House, 11 out of 18; Stanford House, 10 out of 15 and Gerrard House, eight out of 18. The province pays an average of $21.50 per day for placement, although it varies from month to month. It pays a minimum to half-way houses. For example, it paid for 13 at Sherbourne House even though there were only 11. We see this as being a problem which I will want to deal with once I get into the specifics. I don't want to unduly take a lot of time with the specifics when we are in the general comments.

Although I have confined specific areas of criticism and although I can always say you are not doing it fast enough or you are not doing it in precisely the way we would like to see it done, overall we are pleased with the direction that the ministry has continued to take in terms of providing alternatives to incarcerations and, when there is incarceration, the movement towards even more rehabilitation. More can be done, but we like to give credit where credit is due to both your staff and to the various volunteer agencies who are working so hard in this direction.

Mr. Chairman: Thank you, Mr. Bradley. I have received a memo from Mr. Ziemba, who is the NDP critic, indicating that there is an emergency in his riding and that unfortunately he had to go away immediately. I would suggest to the minister that perhaps he would like to give his comments to Mr. Bradley, and maybe we can hear Mr. Ziemba's opening statement at our next session after orders on Thursday.

Hon. Mr. Walker: Thank you for your comments, Mr. Bradley. I'll try to answer your questions. Some of the points will require a further analysis by us over the evening, so that we can reply at a future date, but I will thread through here and have to pick up on the comments listed.

With respect to Bill 85, which was the Ministry of Correctional Services Act, it passed third reading June 19, 1978, and was dealt with during May and June of 1978 by my predecessor Mr. Drea. Section 9 of the bill has been touched on by Mr. Bradley and it indicates: "Every person providing volunteer services to the ministry shall serve under the direction of an employee of the ministry."

We think the reasons were valid at the time for the passage of this section and were outlined by the minister. We were disappointed in the manner in which they were perceived, and after all, we're in a business of perception in politics, and the

perception was not entirely what we were building into it. The perception was something far less—that we were really controlling volunteers and telling volunteers what to do, and that was not really the name of the game, if I can use that cliché.

We met with a number of the private agencies and they made a number of very valid arguments to me, and we have decided that we will suspend the operation of section 9 pending a complete overhaul of the section to better reflect what we wanted to do with respect to questions of security and other matters involving volunteers and at the same time reflect the views of the volunteer organizations. In that regard, our legal department is working now in conjunction with the private agencies to redraft that section. In other words, the agencies themselves are having a hand in the actual redrafting of the section. In the interim period, we will basically instruct our superintendents that we wish the section to be disregarded until we have rewritten it and produced a better and a more acceptable form.

We think we can reach an accord with the private agencies insofar as the wording that accomplishes our purposes and accomplishes their interests. We are working well on that and I'm led to believe that they are quite content now. This is something that I really advised the private agencies less than a week ago now; I think it was last Thursday I spoke with them when they met with us in our board room over some ongoing matters. We have continual liaison with them, and during one of the regular meetings I was able to convey that to them and I'm satisfied that they are content with the position taken.

You touched on the community resource centres and the question of occupancy rates.

Mr. Chairman: Mr. Minister, I've been remiss in not asking you to do this before, but would you introduce to all members of the committee each of your advisers who are around the table so that they may address specific questions to them as well?

Hon. Mr. Walker: Yes, I'd be glad to do that. Sitting on my immediate left is Glenn Thompson, Deputy Minister of Correctional Services. Beside Mr. Thompson is Art Daniels, who is in charge of community programs as executive director, and Mr. Don Kerr, at the far end of the table, is from our information branch. Other ladies and gentlemen in the audience have specific relationships to individual votes. I would be pleased to introduce them at that time and they are certainly available for questioning by any member.

Community resource centre (CRC) usage has been down in the last while. By that I mean for the last six months or so. The reason has been the increased parole releases and, of course, the individuals they take out of the system are obviously those who would be most eligible for CRC occupancy.

It is now fair to say that our CRCs generally have returned to a fairly good level of occupancy. Usage is now 105 per cent of capacity. I am sure it didn't arise out of your telephone call but, on the other hand, maybe it did. I say that facetiously, of course.

Let me give you some actual figures. The occupancy rate in March to June of last year was 273; July to September, 286; October to December, 334; January to March, 1979, 373. Of course, it also reflects more beds coming on stream. Today, we have a capacity of 470. Occupancy during the week of March 12 to 18 province-wide—we are talking province-wide figures—was 425.

Just by way of interest, you have mentioned one or two homes here. March 23 is a date I have in front of me for a count in our institutions. Madeira House, with 12 people in it, has an occupancy capacity of 15. Bunton Lodge—capacity 11—had 15 in it. These are all Toronto CRCs. Stanford House had 14 people in it and a capacity of 15. Gerrard House had 20 people in it on March 23 and a capacity of 17. Sherbourne House had 14 people in it and a capacity of 17.

So it is fair to say that our numbers, while down, showed certain temporary aberrations and CRCs have now begun to return to full capacity. We do not anticipate difficulty in filling the beds.

Mr. Bradley: I call this a supplementary, Mr. Minister. I think we recognize that the coming into force on September 1, 1978, of the federal parole act would have some effect. Would you have any comment about the willingness of operators at half-way houses to accept inmates? I understand they like to accept what are called the easier, long-term prisoners and there are now fewer long-term and more short-term prisoners. Is it a fact that they don't want to accept them; or that there are certain people they don't want to accept?

Hon. Mr. Walker: I think that's true enough. They had some doubts initially. Some of them were relatively new to the operation because we opened 10 new CRCs

last year. They wondered what their role would be. They wondered how they would cope with people. Some of them had interesting histories. I think, after some experience, they are now satisfied that they can cope with the level of inmate population we have today.

[12:15]

Not only that, they are prepared to venture out into other areas; for instance with respect to the bail hostel question, where we would make use of CRCs as interim bail hostels. Should we have need for bail hostels in the future, if the use and need is high, then we will of course have separate bail hostels, but in the interim we will make use of vacant space in CRCs. Initially there was some concern about that, but there was quite a turn around in feeling and we are quite pleased that it has come with a bit of their own personal experience.

With respect to the ombudsman—before I go into that, you mentioned recidivism. We found, after one year, that there is a 30 per cent reconviction rate—this is generally speaking, we are talking about all community resource centres—and a 24 per cent reincarceration rate, which is somewhat better than the system as a whole.

Mr. Bradley: Are you able to give us a centre-by-centre breakdown so we can have some sort of comparison? Your ministry no doubt is interested in the comparison as well. I recognize there are other factors that enter into it, obviously there are different kinds of customers coming in, if you want to put it that way; however, generally speaking some may be more successful than others and the ministry, and we in the opposition, may be able to isolate the reasons some are more successful than others and try to adjust the system to the more successful.

Hon. Mr. Walker: We have not had a study. I suspect with the coming on stream, more and more, of a confounded computer we are likely to be able to give you better readouts; but remember that most of the CRCs have come on stream in the last 15 to 20 months, so it is difficult to get a full picture because obviously you have to have a period of time to measure them, at least a year, maybe two years to get a full picture. But I would think that before too long we should be able to give you that information. It may be somewhat costly to provide it but we will assess that situation and see where we go.

Mr. Bradley: That would be almost as costly as it would be to have us continue using those which are not as successful as they might be.

Hon. Mr. Walker: Probably more. On the Viking proposal that you referenced, we basically quit our negotiations with them so they are no longer a consideration.

You mentioned the ombudsman. I am not sure I can pinpoint the precise location of the $10,000,000 saving that was referenced; however, one has to say that the service provided by the ombudsman in Ontario, from a Ministry of Correctional Services point of view, is superb. We have this outside appeal body, in effect; we are very happy with our relationship with the ombudsman.

I personally met with the new ombudsman, several months ago now. We feel we have a very good relationship. I have indicated to him, of course, that the institutions are wide open to him and to his people; that he is free to go anywhere and that we would welcome his assessments from time to time.

We have yet to have many reports from the new ombudsman, but in the past Mr. Maloney provided a number of assessments. We were very prompt to respond to what he suggested in most cases. He was quite content; and in fact made comment to the ministry—this was before I arrived in the ministry—he made comment in a very positive way on what the ministry has been doing.

I can remember one case where, in Ottawa, we have provided telephones to the inmates. That's not to be misread, that they all have their own personalized Princess telephones in each of the cells, but rather we have plug-in systems in each of the corridors such that an inmate can have fairly ready access to his lawyer. There's a person who's responsible for seeing that a phone is delivered to the inmate and he plugs it in just outside the corridor—it has a long cord on it—and then a staff person places the telephone call and gets the lawyer on the phone. Lawyers have indicated to us whether they would permit us to phone them at home or not, and we certainly have the office number, and those arrangements have been very well received.

Mr. Maloney went a long way to compliment the superintendent of the Ottawa-Carleton Detention Centre for having provided this service. That is being duplicated through many of the places in the rest of the ministry and I would hope that the experience would be the same and we will see it in virtually every institution throughout the province. There's a very modest cost

I may say, but it's a tremendous service and we think it's beneficial for all concerned. It speeds up a lot of trials, just the fact that the inmate may be able to reach his lawyer somewhat more quickly and maybe call him every two days if necessary.

Mr. Bradley: I would, of course, naturally assume that it is determined by the ministry that calls go only to the lawyers and to the family on urgent affairs.

Hon. Mr. Walker: Yes, and he makes his call in relative privacy. If it's a call to the lawyer, you won't find anyone around listening in or listening nearby; we have a certain control over that aspect of it. It's working quite well.

Mr. Chairman: We adjourn at 12:30.

Hon. Mr. Walker: Let me just touch on one or two other points. We won't get through your entire range of questions and I'll have to cover some of them tomorrow, or perhaps after Mr. Ziemba's opening.

The Rahway experiment, I'm a very big booster of that. I don't suppose I was in the ministry more than four or five days when I requested that we research the matter and look into it. We did, and I'm as convinced today as I was then that it's a superb approach. Rahway is, for those of you who are maybe not familiar, a prison in New Jersey and there the lifers, as they call them, the people who have no anticipation of getting out in the next 48 hours, unless there's an escape, basically really give it to young punks, if I can use that word. I use it in its intended sense, young kids who have basically got to the point where they're about to do a big job, they're about to spend a fair amount of time in jail, somewhere along the line in the next while unless they've rescued at this rather important time in their lives.

Basically they're just dressed down by these guys who have nothing else to gain but really give it to them with respect to whether they should embark on a life of crime. They tell them what they can expect when they go into some of their type of jails. I would have to add that ours are not quite as nasty as those described in the Rahway experiment. However, some of these lifers have certainly portrayed to some of these tender individuals just exactly what they can expect, and basically it has scared the living daylights out of a good number of them, with tremendous results.

The Rahway experiment has been followed up by researchers who have determined that the amount of incarceration following the experience of these people before the Rahway bunch is significantly below what it would have been had they been left to go on their own. They have had everything frightened out of them and it has worked beautifully.. The same experiments could be done in Ontario, and we are prepared as a ministry to support it in whatever way we can.

You have quite properly mentioned that the kind of people we have may not necessarily frighten some of the juveniles who turn up in front of some of our prisoners. A good many of our prisoners are drunks who are not going to frighten too many people. A good many have driven a car improperly, and a good many have written improper cheques or may have been involved in commercial frauds; so they are not really the ones to talk to.

Constitutionally, our institutions have people who have been sentenced to less than two years—often to three months, six months and so on—and they are not the ones to talk to. The ones to talk to are the kinds in the federal penitentiary, and we certainly have participated in that with some of our probation people. We have a few of our adult probation staff in Belleville who are participating in and are involved with the program being run at Millhaven, which is not to be confused with Millbrook—Millbrook being a provincial institution and Millhaven being the federal one. The program is called STYNG; Save The Youth Now Group is the name of it. It must have been an acronym determined by a civil servant; they are the best at coming up with CRCs, TAPS and all these other beautiful acronyms.

Anyway, the program is apparently working and there is a fair response from a number of the juveniles who have taken part. In other words, the desired effect is being achieved by some of these lifers at Millhaven who are shaking up these kids in the general Kingston-Belleville area. So we are enthusiastic about it. We realize that the kinds of people in our institutions are not likely to be the subjects in the meeting, but certainly it is useful and, if we can help, all our people are available if necessary.

Mr. Chairman: Further questions, Mr. Bradley?

Mr. Bradley: No.

Mr. Chairman: It is close to 12:30. When we next meet, which will be after orders on Thursday, the minister will continue his comments on the opening remarks of Mr. Bradley, followed by the opening remarks of Mr. Ziemba, who again expressed his regrets that he had to leave because of this

problem that has erupted in the west end of Toronto.

I would like to mention to members of the committee—and no doubt I will have to mention it again when there are greater numbers present—that as of next week we will have a new headquarters, so to speak, for the justice committee; we will have some offices of our own. I would like to think that those offices are not just an extra office for the chairman, the clerk and the secretary, but also for your use.

We have been able to obtain some office space in the Whitney Block for the clerk and myself. In addition, we have a board room where members of the committee may meet any delegations they wish to see. We are hoping also to have a small library in that board room, as well as a number of filing cabinets, where all documents tabled with the committee, or any document that any member of the committee may consider useful, may be filed.

If anyone would like to see those facilities, we would be more than happy to go over with you and show you. Right now, a lot of construction is being done over there, but it will be a fairly nice facility. We have space almost the size of this room subdivided into office space and a board room, with proper tables and so forth.

I am hoping that members of the committee will use the space. It is in the Whitney Block, and it is about four or five minutes' walk from this room. If anyone would like to see it, simply contact the clerk or myself; we will be happy to go over with you and show you the facilities.

The committee adjourned at 12:30 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of Correctional Services



Third Session, 31st Parliament
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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 3:27 p.m.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES
(continued)

Mr. Chairman: The committee will please come to order.

I have one substitution. Mr. M. Davidson will be substituting for the chairman later on in the justice committee.

Yesterday we were still on the first vote, and the minister was in the midst of his reply to the critic for the Liberal Party. Will you continue, Mr. Minister?

Hon. Mr. Walker: Yesterday Mr. Bradley indicated that the minister should be utilizing the private sector in the provision of bail services. I would like to re-emphasize the point made in my address to you yesterday in regard to the use of the private sector in the community programs division.

Last year there were 10 contracts for services with the private sector. In the coming year in the probation and parole services field alone there will be some 25 contracts, coupled with the 38 private agency contracts in the community resource centres area. These private agency contracts will total over $5,000,000, which is an increase of $3,000,000 from last year's estimates. It represents a 25 per cent increase in the division's budget.

Mr. Bradley inquired about training in the community resource centres. The staff training centre of the community programs division, in consultation with representatives of the association of community resource centres and the heads of each one and the director of our community resource centre development, developed a basic management training course for CRC directors and selected staff.

This management seminar has been conducted in Ottawa for the eastern region CRCs; and in Thunder Bay for the northern region. Seminars for central and western regions are scheduled for May in Toronto and the end of May in London respectively. The content of the seminars involves general management principles, which could be individualized by the CRC staff to meet their more specific needs.

Mr. Bradley: I take it that is the extent of it; namely, the seminars themselves.

Hon. Mr. Walker: That's right. We are quite happy that we are developing a program that is meeting the need. We do not have much criticism of the operation of the CRCs at the moment. We are quite pleased with the general level of behaviour of inmates and with the level of competence displayed by staff and directors of the CRC.

Mr. Bradley: How long are these seminars? Two or three days?

Hon. Mr. Walker: Two days. Other questions raised yesterday involved an update on our community resource centres. I didn't really have an adequate enough opportunity to outline the great strides that the program had made in the past year. We do have a slide show on it at some point in time that you might want to see. It consists of about eight or nine slides. It would only take about four or five minutes to go through. At some point, I think you might like to plug into that and see it—probably after Mr. Ziemba makes his remarks.

[3:30]

On April 1 last year there were 21 CRCs in Ontario and the capacity was 295 people. Today there are 33 CRCs, which shows our great move towards greater use of the community. These are actively operating and providing a capacity for 438 people. While the briefing book on page 45 indicates something just over 68 per cent utilization, in fact that figure must be revised to a more accurate one of 93 per cent utilization. The original statistics quoted do not take into account the opening of CRCs throughout the year.

In the past year 13 new resource centres were opened, with a capacity of 143. You can see the CRC count has increased from 273 people in March 1978 to total of 425 in March of this year.

Yesterday, you raised questions involving the Barrie and Sault Ste. Marie jails. I might just touch on those as they were explored.

We are attempting to encourage community involvement in both Barrie and Sault Ste. Marie, with some significant successes expected. We will attempt to divert, through alternative forms of corrections, many of the clients who would otherwise have been held in those two institutions.

In Barrie, a community resource centre will be opening in the next fiscal year, operated by the Rotary Club. In addition, we have literally discovered new jail cells in the Barrie area. A new courthouse was opened a year ago, and located in its basement, are 12 maximum security cells. The new courthouse is about 150 feet away from the existing Barrie Jail. We've significantly alleviated the pressure by making an arrangement with the Attorney General's office that we would use those jail cells during the day. The men return at night to the old Barrie Jail for sleeping, but spend their day in this rather fine facility located in the lower level of the new Barrie courthouse. That's taken off a lot of pressure.

In addition to that, we requested and received significant co-operation from the judges and from the other disciplines in the area; from probation, the jailer, the police, the law association, and the sheriff. Together they worked on reducing the figures at Barrie. We have been impressed, as they've been able to lower the actual inmate count in the Barrie facility. Even though it appears high at the moment, this is the usual January, February and March aberration which occurs every year. The actual numbers are showing a dramatic decrease.

A combination of the additional facility uncovered next door, with the addition of co-operation led by the bench at our request in Barrie and with the hoped for onset of community programs this year which will see a CRC located there, has modified the Barrie situation significantly from a rather exacerbated and embarrassing situation of many months ago.

Incidentally, in Barrie we anticipate additional accommodation will be provided, probably by the end of the year, through portable facilities.

Again, in Sault Ste. Marie community programs are expected to take off a lot of the pressure. Sault Ste. Marie is one of the more difficult areas we have. Our funding arrangements with the John Howard Society, the provision of a CSO co-ordinator in the area, and the involvement of the judges in co-ordinating a committee to attempt to keep a lid on the complement, is working extremely well. Questions of remand population affect the counts. Altering the remand population has a dramatic effect on the complement within the jail.

I think that answers most of the questions you raised.

Mr. Ziemba: Mr. Chairman, I'd like to acknowledge the ministry's staff and pay tribute to their dedication and hard work. After two years most people who attend our jails can go, but staff seems to be stuck with them for a lifetime, so in a sense they are serving a kind of life sentence. I find this a very open ministry, as I'm sure Mr. Bradley does, and I'd like to thank the ministry staff officials for being as co-operative; I'm very appreciative of that.

I'd like to also pay tribute to the many volunteers that work with the ministry—the John Howard Society, the Salvation Army, the Unfortunate Society, M-2, the Native Friendship Centre, the Family and Friend Centre, the Quaker Committee on Jails and Justice and the Elizabeth Fry Society. We have with us this afternoon the former member for Peterborough—she served in this Parliament in the last session—who is now the executive director of the Elizabeth Fry Society, Gillian Sandeman. I extend a warm welcome to Gillian.

If one was to stop a man in the street and ask him for his views on the correctional ministry, chances are he'd quote Mr. Barretta, "Don't do the crime, if you can't do the time." Most people have very little sympathy for the offender. We are living in a right wing time and people demand law and order. The police are critical of what they see as our soft bail laws and many minority groups are in retreat—people of goodwill are in retreat.

Welfare recipients are treated as scapegoats by opportunistic politicians. Workfare is suggested for single mothers, widows and the disabled. Most people would like to see the hangman back on the job. There's still the "me" generation; survival of the fittest and rugged individualism is the order of the day. Nobody seems to be talking about the brotherhood of man any more and the pendulum has swung to the right.

The former Minister of Correctional Services (Mr. Drea) was an overnight success. He introduced bold new programs that were supported by the people on the right as well as on the left. How did he do this?

Mrs. Campbell: By talking out of both sides of his mouth.

Mr. Ziemba: On the one hand community service orders were supported by some people because they believed that prisoners should work hard as punishment for their crime. There was not only the free labour aspect, but also the saving of $50 a day for a jailing as well as the demand for new expensive prisons. So community service orders, community resource centres, resti-

tution programs and work gangs were applauded by most people.

On the other hand, progressive people saw all these new programs as long overdue alternatives to imprisonment. Jails cost a lot of money; we couldn't build them fast enough; and they didn't work, they were schools for crime. Since 70 per cent of ex-prisoners return to these same correctional institutions, they were an obvious failure. So Mr. Drea's alternatives to imprisonment were long overdue and, as I said, they were supported by both the right and the left for different reasons.

Now these new reforms are off to a shaky start. The most controversial community service order was the sentencing of the Rolling Stones guitarist to perform a free concert for young blind people in Toronto. He had been charged with a drug offence. The concert is still up in the air, but the sentence represents what amounts to a $100,000 community donation based on the Rolling Stones fee. Our Attorney General (Mr. McMurtry) has ordered an appeal on the grounds the penalty was not a sufficient deterrent to other young people.

We had an Ottawa doctor convicted of defrauding OHIP. He was fined $10,000 and ordered placed on probation on condition he work on a research project on spinal injuries at the Ottawa Civic Hospital.

But most judges are not co-operating, or have made timid use of community service orders. Still, last year 1,000 men and women were sentenced to help in the community as an alternative to receiving a jail sentence. The minister explained, in yesterday's slide presentation, that 1,300 people are in jail on remand every day. Forty-eight per cent of these people are released within seven days. This means that 900 prisoners sit around in maximum security cells, at an annual cost of $16,000,000, when they shouldn't be there.

I was pleased to see the minister introduce the concept of bail hostels and bail supervision. It costs $50 a day to keep an accused prisoner in jail, but supervision will cost about $2 a day and bail hostels will cost $20 daily.

I'm particularly interested in bail hostels and I'll tell you why; I'll give you an example. A kid runs with a rough crowd and goes bad. He gets picked up by the police and goes to court. If he is released immediately on bail, he may have nowhere to go. His parents are angry with him; he has no job. He drifts back to his former companions and in no time at all he's picked up again for a second offence. But maybe this time it's more serious than the first.

On the other hand, if the court orders him to a jail hostel he is removed from his bad environment. If one buys a little time, his parents have some second thoughts; they come around and talk about his future. A job may be lined up. When he finally appears before a judge the parents are willing to take him back. He has a job to go to. He has a new future. In my opinion, there is a place for bail hostels in our justice system.

Fifty per cent of the inmate population is serving sentences of 30 days or less, mainly on minor driving and drinking violations. There are still people serving weekends in the Don Jail for failure to pay parking tickets. In fact, we still operate debtors' prisons.

Even with all the new initiatives you can still visit any jail in this province and find them jammed to capacity. In some cases prisoners sleep on pads on the floors and corridors. The Toronto east as well as the Toronto west detention centres were designed to hold 200 prisoners each. Now they hold over 500 prisoners each. The majority of inmates are still sitting on their bunks doing nothing. Of the 5,500 incarcerated, including 1,200 long-termers, how many are doing anything?

In the slide presentation, the minister told us that one in five inmates was illiterate. He made reference to basic skills programs, as well as technical and vocational training. How many skills and trade instructors are we budgeting for? How many instructors to help 5,500 prisoners? How many should there be—200, 300?

We have 2,678 correctional officers. We have 121 superintendents and deputy assistant superintendents. We have 170 maintenance staff, 322 clerks and secretaries. How many of the 3,786 classified staff are teachers? I know the answer will shock you.

The skills and trades instructors we're budgeting for this year add up to 48. There were 56.5 teachers last year; there will be only 48 this year; 8.5 teachers were cut.

Why make cuts in education in corrections when the minister admits that one in five prisoners is illiterate? What is the use of having them go out in work gangs when they can't get a job on release because they can't read or write, or even add?

If they can't get a job they'll only end up back in prison. Why cut back on teachers when the number of inmates is not decreasing significantly? Why cut back when studies indicate that educational programs lead to a lowering of the recidivism rate?

An ATC report, table 13, indicates that the average recidivism rate is 68.8 per cent. From

the Correctional Update, volume five, no. 2, the first offenders' rate is 48.8 per cent.

Maplehurst Correctional Centre: 54.9 per cent. That's the side of Maplehurst that's just a holding facility. But for the other side, the adult training centre study of Maplehurst, the recidivism rate is only 22 per cent. So we can see 22 per cent in a facility that has teachers, as against 68.8 per cent as the provincial average. Basic reading, math and life skills courses should be compulsory for all teenage inmates. They should be forced to take them.

[3:45]

Teenagers are overly represented in our prison system, as you know, Mr. Minister, and the situation is going to get worse before it gets better. Under the training school system, 4,500 juveniles—the sons and daughters of the baby-boom generation—will be soon turning 16. When they do turn 16, the Ministry of Community and Social Services will probably let them be charged in adult court to avoid any further responsibility for them. Guess where they are going to end up? That's right, on your doorstep. And you are cutting back on teachers today, even though the adult training centre report on education and corrections is only one third complete. I would like to know when this report will be available; and will it be an honest, objective report, or will it be a self-serving report that will justify the teacher cutback?

Your ministry should consider hiring 200 teachers immediately—tomorrow. There should be guidance counselling in co-operation with community colleges so that when a prisoner is released he can continue his education. With today's economic conditions, a job skill is a must for someone to make it on the outside.

As of September 1, 1978, the federal government allowed us to administer the parole of provincial prisoners; that is, those with sentences of up to two years. In addition to this responsibility, probation and parole officers will be asked to administer your new bail supervision program. I would like to know how many more probation and parole officers you intend to hire to handle this increased workload.

Vote 1603 does not hold out much hope in this regard. Last year's average case load was 85 people per officer. Your new target is 97. How can anyone properly supervise 97 cases? This can be nothing more than crowd control. If it were not for the goodwill and dedication of unpaid volunteers, probation and parole services would seize up.

Every time I drop into a new jail I cannot help but notice there are a number of emotionally disturbed or low-functioning inmates in almost every corridor. I know that other prisoners can and often do make their lives miserable. Sometimes these unfortunate individuals are transferred to the protective custody wings for their own protection. But even there they are often abused. I wonder if you have ever had any complaints about this particular group and if you have any plans for a more humane setting for them.

Even protective custody inmates—I guess the Ombudsman gets more complaints from this group than any other in the prison system—their days and nights are filled with terror. They are the informers, child molesters, rapists, homosexuals, East Indians and blacks. They are often hated and despised by the prison population and have to be kept in protective custody for their own protection. They fear a prison riot because they are the first victims. They are abused, spat upon, and sometimes assaulted when they are marched to another wing, on their way to the exercise yard or to the dining area. Often their food is purposely contaminated by the other prisoners that work in the kitchen.

I wonder if you have had a chance to think about these unfortunates, Mr. Minister. Your predecessor was in favour of integrating the sex offenders with the regular prison population. In fact, in last year's estimates, Mr. Drea stated: "And we have cracked down on protective custody. Unless there is a need for protective custody, we don't use it. The reason we have cracked down is that once again it is hardly fair to the community, to the courts and the person. If you can't cope with the general inmate population, then you're not going to be able to cope on the outside." That is, if you make it back to the outside. As far as I am concerned, integration would be the same as the death sentence. You certainly would have a high body count.

In fact, Mr. Drea indicated that this experiment of integration would take place in two prisons. He volunteered to give us the names, but neither Mr. Bradley nor I asked him for them. I wonder if you could tell us how this experiment has worked out and whether you share these views, or whether you are considering a separate facility to house protective custody prisoners.

You mentioned just now that there were 33 community resource centres. Could the committee have the names of the cities in which these resource centres are located? It seems to me that Toronto is the most

neglected community resource centre location, but that may not always be the case.

Native people are overly represented. They are another group that is over-represented in our prisons. Most of them are in jail because they can't afford to pay their fines. The day-fine system was supposed to correct that, but in the meantime jailing is a kind of initiation to manhood for the native Canadians.

I would like to know how many native people are involved in the operation of community resource centres. In fact, I wonder if you could tell us how many native Canadians are on your staff; also, what sort of alcohol rehabilitation programs are in place and what other initiatives your ministry is taking to help the native offender?

Ninety per cent of all crimes that result in jail sentences are alcohol-related. What sort of agreement do you have, in funding, with Alcoholics Anonymous? Do you fund any counselling and rehabilitation programs other than AA?

I agree with your criticism of the intermittent sentence program. I suppose by sentencing an offender to a weekend term the judge feels he is not jeopardizing his job and income, but I can see the problems arising you described yesterday.

For instance, a former alderman in Toronto was convicted of impaired driving on a number of occasions. He was terrified of being sent to jail and spent a great deal of money on a legal defence that involved many, long, drawn-out court trials. In the end he was given an intermittent sentence. What good did that do? He needed help, counselling, rehabilitation; and I don't think he will get it in a jail setting, serving an intermittent sentence.

The Criminal Lawyers Association has criticized your ministry for charging a rental fee for intermittent sentences. You have indicated, in the House, that you have socked away something like $160,000 in rental fees and you feel it serves to teach the inmates to be responsible. The lawyers association argues that you are imposing an additional fine and only the courts have the power to do that. Not too many people out there are worried about this charge, I suppose, except the people who are asked to pay it. I am told failure to pay can result in loss of earned remission.

In any case, do you think you are setting a good example for inmates? This fee is certainly a questionable practice and does border on the illegal. I wonder if you would welcome a court action to render a decision one way or the other? I certainly hope you are keeping that $160,000 in trust pending such an action, just in case you have to return it to these people.

These estimates do not tell the whole story, Mr. Minister. This ministry spends a pile of money building new jails, but this amount shows up in the Government Services estimates. Last year, it was something like $40,000,000—wasted dollars, I might add. I certainly hope you don't repeat that mistake. We all agree there are thousands of people in jails who need not be there. We are moving to alternatives for people who have not been sentenced, so why build the Toronto South Detention Centre? I have no idea what the Toronto South Detention Centre, which will be located on the Mimico grounds, is going to cost, but probably double what the present ones cost.

The debt retirement savings alone would provide community agencies with enough funding to relieve the overcrowding in the other three Metro jails. Why make developers rich while you starve social services? In fact, later on in vote 1602 I intend to take you to task for your short-sighted priority as far as social services staffing compares to the other staffing in your ministry. In fact, you have 39 people involved in social services compared to 2,678 correctional officers.

I've had a number of complaints about individual jails over the past year. My colleague, Mr. Grande has complained about the lack of shelter for visitors to the Mimico reformatory. The waiting-room is small and on cold winter weekends visitors are forced to wait outside.

Visitors to the Don Jail were in for a surprise last year. With the old section closed down and fewer inmates, the correctional officers had a lot of time on their hands, so the superintendent came up with a nice little make-work project. He dusted off some old regulations and ordered the correctional officers at the visitors' desk to ask for two pieces of ID from every visitor. The ID had to have a traceable number, in other words, a passport, social insurance, or driver's licence number. This came as a real surprise to visitors. Some people had come from out of town and some had been regular visitors when, all of a sudden, they were asked to produce this ID.

No one at the Don is allowed in the main door until the visiting hour. After waiting outside for an hour or so, these visitors enter the jail only to learn that they cannot visit unless they can produce two numbered identification cards. Needless to

say, by the time some of them return home to get the necessary identification, the visiting period is over. There was one case of a woman coming down in a wheelchair who was turned away because she didn't have proper identification.

I complained to the superintendent about this new make-work project and he agreed to nail a sign to the big entrance door explaining the ID rules so that people would not wait outside in vain. I suppose the moral of this story is that sometimes overstaffing can create problems too. The Don Jail is the only one I know of that is overstaffed.

On the other hand, our chairman (Mr. Philip) has complained about the short staffing in the Toronto West Detention Centre that is located in his riding. Correctional officers are asked to work a great deal of overtime. In this way, I suppose the ministry doesn't have to hire additional staff, but we have learned from the Millhaven situation that overtime can lead to problems, a loss of morale and even dangerous situations. I believe that overtime is a false economy and should not be encouraged.

The Sault Ste. Marie Jail, which the minister mentioned as the estimates started this afternoon, and the Barrie Jail are jammed to three times capacity as well as understaffed. I would like to get a commitment from him about alternatives, other than the courthouse situation he mentioned in Barrie. It seems to me that Camp Hillsdale is close enough. More use could be made of that.

Hon. Mr. Walker: It's full.

Mr. Ziemba: The visiting area for women in the west end detention centre is inadequate. This wasn't supposed to be a facility for women I understand, but women were transferred to the Metropolitan Toronto West Detention Centre when the Don Jail was closed. I wonder if the minister has plans to alter that and make that more approachable.

My co-critic Mr. Bradley has mentioned section 9 of the new Correctional Services Act. I understand you are reviewing it and I would like to know how you intend to amend it.

In conclusion, I would like to get the minister's comments on the possibility of the province's taking over federal institutions located in Ontario. Has this been proposed at a federal-provincial conference and what are your views on this possibility?

[4:00]

Hon. Mr. Walker: Let me indicate in reverse order some of the questions you have raised, Mr. Ziemba. Section 9 of the act is in the process of being reworked. I can't answer right now how it will be amended because that really is a subject of an internal debate with members of our legal department and, more particularly, with members of the private agencies who have expressed some alarm with it. In that regard the John Howard Society, Elizabeth Fry, M-2 and one other, I believe, are working on the redrafted proposal and ultimately I am going to see what that is. But at the moment I can't tell you what it will be, and so it is impossible to answer that question. You had left yesterday before I had a chance to mention that in your presence, but I did mention that in reply to Mr. Bradley.

The next area I would like to refer to is the Metropolitan Toronto West Detention Centre. In that the chairman is somewhat involved in that situation, being the MPP for that riding, I will just make brief answers so that he can leave in a moment or two for another engagement which he has.

There were a number of incidents of concern expressed from Metro west. It probably all came to a head back on October 28, when 13 correctional officers left posts for over two hours over basically what all people concerned would express as a relatively petty incident. I described it as such at the time and no one has disagreed with that assessment since.

We requested Mr. Jack Eastaugh, who is the chairman of the minister's advisory council on the treatment of the offender, to do a thorough investigation and report to me. He is an independent person, not on contract to the ministry. He is an outsider who has a great deal of knowledge of our system. We felt that he would be able to give us a very detached observation, and he did.

He went out to Metro west. In conjunction with our personnel director, he met with some 82 staff on a one-on-one basis, chatting with them and getting their feelings. The entire complement was invited to discuss matters with him and 82 came in for personal attendances. He felt that really he had got to the bottom of the problem. His report was produced and, as a result of the report, which was really a letter he wrote to me and recommendations enclosed, we increased the staff at Metro Toronto West Detention Centre.

Twelve permanent correctional officers were added and also five correctional officers were added on temporary assignment from

other institutions. The number went from 183 to 195. We were satisfied that the cost for these correctional officers would be offset by the reduction in overtime costs. The visiting area was enlarged, as that was a concern. Metal furniture was put in to replace wooden furniture and improved two-way radio communication was established throughout the entire institution.

The 13 correctional officers who left their posts received suspensions ranging from one to 15 days without pay. My view at the time was that even though there might have been difficulties there, whatever the difficulties were, they did not vindicate the walkout.

I expressed those views at the time and I still maintain those views. There is a procedure by which these matters can be corrected. In fact we were able to address the problems. I'm satisfied that had they been properly raised through the normal channels we would have responded to them in a similar way as to what we have here.

Mr. Chairman: May I ask a question about Barrie? Have you done any studies on the amount of overtime that is presently being paid at the west end detention centre as compared to overtime before the addition of the officers?

Hon. Mr. Walker: We haven't done a precise study, but we can say to you that it is substantially reduced.

Mr. Duggan is here. He is executive director of institutional programs, and he would be prepared to answer any direct questions on it.

Our personnel director is here, as well, if you would like to raise any questions with him directly. Mr. Crew is in the back of the room. Mr. Crew, would you like to stand up? Mr. Crew was with Mr. Eastaugh on almost all of the study. If you have any questions I can ask Mr. Crew to come up.

Mr. Chairman: I would like to know what the average number of overtime hours is now at that centre as compared to the average overtime per staff person before. Perhaps you can supply that information and it can be reported back on Friday.

The other question that I had was on the union and the employees of the west end detention centre; their chief arguments that appealed to me were not only the amount of money that was being wasted in overtime that could be used to hire new people, but also the safety factor. I am wondering if there are any studies you have that show any relationship between the ratio of inmate population to security staff and safety.

Hon. Mr. Walker: That varies of course, from institution to institution. There are some institutions where we have to have a one-on-one relationship. Mind you, even that is not quite accurate because when we talk about one-on-one, if there are 150 inmates and we have 150 complement, it takes five complement to equal one position when you work in days off each week and three shifts a day. It is not quite to be measured in terms of one-on-one; it is probably five inmates for every one staff.

That varies from institution to institution. In a place like Metro west it is a much different situation. The security is very, very high—the physical surroundings, controlled by automatic gates in and out of many areas, control booths and so on—that type of thing.

Mr. Chairman: I guess the question then is what do you do in a situation where the staff say that the ratio is not safe? How do you gauge that? Do you do it by the accident rate, or do you do it in some kind of a subjective way by saying at Metro west we have a plant that in fact is very sophisticated and, therefore, we require less staff? How would you approach it in the case of an individual institution to answer the union or the employees who say, "We need more staff because it is not safe here"?

Hon. Mr. Walker: Mr. Thompson I think could answer that better than I could.

Judge Thompson: Mr. Chairman, the ratios applied in any correctional institution have to be viewed entirely in terms of the design of the institution, first of all. That depends on the size of living units; whether or not the institution, of course, is serving a maximum, medium or minimum security purpose, or a variety of those purposes; and the kind of program that one wants to carry on within those centres.

The new detention centres—Toronto west, Toronto east, Hamilton and London—were designed to hold people for longer periods of time and have more programs within them and, therefore, the number of staff required was viewed as needing to be substantially larger than the staff would have been in a traditional older-fashioned jail. So when we first staffed those institutions they were staffed up a good deal higher than a traditional detention centre might have been.

They are in a sense a hybrid, I suppose—somewhere between a correctional centre and an old-fashioned detention centre—in their design and staffing. Certainly Mr. Eastaugh's report recognized very clearly the need for more staff at that centre. That is the reason those changes were made. It is our view that

the staffing there now is at a level to provide security safety.

In the initial stages of evaluating any institution, one usually works that out on the number of fixed posts required in the institution, where individual supervisors will have to be covering the institution either around the clock or on particular shifts; so the personnel branch has specific kinds of formulae they use, of which our own union membership are pretty much aware as well and, of course, discuss with us. There is a fair amount of freedom of information, if you will, about how we reach conclusions on the number of staff for any institution. But all those factors have to be taken into account.

Mr. Ziemba: But something happened at the Metropolitan Toronto West Detention Centre that you didn't bargain for when you set it up. It was originally designed for something like 200 inmates. You have increased the staff by 12, but you increased the inmates by 200.

Hon. Mr. Walker: There is the fact of double-bunking. In other words, when the facility housed roughly 200 people, it was larger per cell for one person than would be generally required. The fact that we could go in and put in double bunks, and still have far larger square footage space per inmate than we had in the Don Jail, to our way of thinking made good sense.

Mr. Ziemba: What is a recent prisoner count at the Toronto west detention centre?

Hon. Mr. Walker: For Toronto west detention centre, the count for Wednesday, April 4, is the most recent I have: 266 male, 73 female. The staff is 195.

Toronto Jail, on the other hand, has 365 people, generally speaking. In fact, on Wednesday, April 4, the count was 361 people, and the capacity was 361. The staff was 205. I think someone offered a figure that was somewhat different from that.

The Metropolitan Toronto East Detention Centre generally runs around 311 people, with 173 staff. As you can see, it has a somewhat higher level of inmates and a lower level of staff complement. Of course, the differences reflect design. The design of the Toronto east detention centre is considered superior from our point of view to others from many points of view. One, of course, is the question of inmate-staff ratio.

Mr. Chairman: I wonder, Mr. Davidson, if you would be good enough to take the chair so that I may keep some other commitments.

Hon. Mr. Walker: In total terms, Mr. Ziemba, we continually assess the need for staff. In Toronto west, the complement has increased by 42 people from what it was when it was initially established. That includes the 12 people we have talked about today.

[4:15]

Let me try to respond to a point you have raised as best I can here. You have put forward quite a few questions and I will try and touch on every one I can.

It is true that we are requiring more identification and that's from a security point of view. We have had some incidents in some of the jails. I am mindful of an incident I was told about at Ottawa-Carleton Detention Centre where people were able to burst in on the scene and in fact there were some escapes. We had two rather bad escapes there: In one, people came in brandishing firearms right through the front door —basically shot their way in and took out some friends.

Mr. Ziemba: You wouldn't ask them for identification though?

Hon. Mr. Walker: No, though I can assure you now we've made it more difficult to get in. So the general level of security has increased and I think it probably reflects what's going on in society at this time.

Certainly, the Toronto Jail, which is probably the most active jail in Canada, is a very tight quarter. We're quite satisfied that we must insist on a fairly high level of security for admission of visitors, assuming that we have some 350 people generally in the new Don Jail, if I can call it that – that's a lot of people and they're turning over daily. I forget what the percentage is, but the in and out percentage is just amazing. So we're very concerned in that institution and so we require fairly heavy security. It was built to the standards of 1955, and applying 1970 and 1980 standards is why we require the identification we do.

It's similarly required elsewhere in the system. In fact, I can tell you that they won't even let the minister in there unless he flashes some special card that has his picture on it. It looks like one of these new age-of-majority cards, I think. Anyway, it's not quite age-of-majority but it's a similar type of card.

Mrs. Campbell: Do they question you about that too?

Hon. Mr. Walker: They don't question my age of majority but they question who I am.

Mr. J. A. Taylor: With good cause.

Hon. Mr. Walker: Yes, they have good cause.

Mr. J. A. Taylor: I was interested in your comment that it's harder to get in than to get out.

Hon. Mr. Walker: I didn't think I said that.

Mr. J. A. Taylor: You didn't say that, but that was my conclusion as a result of some of the comments.

Hon. Mr. Walker: I can assure you when we make our trip to Guelph next week you will find it's more difficult to get out than it is to get in.

Mr. Ziemba: Getting back to that point before you leave it, Mr. Minister, this is a new procedure, You never did ask for identification before last year at the Don Jail, and the only reason you're asking for it now is because you've got staff that have the time to do the requesting. So I question whether this security scare is genuine. We had the Edwin Alonzo Boyd gang break out of there in 1952, and I don't imagine people have been asked for identification since then. Why all of a sudden now? What has changed? What sort of people are we putting in there that you feel are such a threat to society that even their visitors have to be identified?

Hon. Mr. Walker: It involves a number of factors, but generally it is the course of society and what's happening, as well the fact that the prisoner in our institutions today, because of so much community involvement now, is becoming more hard core, if I can call it that. The individual is a more serious type of individual if he is left in a remand institution and these factors, as I say, are province-wide. We are requiring much heavier identification throughout the province and the fact that we do it at the Don Jail is just reflecting that increased level of security.

Mr. Ziemba: You mentioned one incident in Ottawa where someone's friends went in with guns drawn; your security wouldn't have helped you much there. Has there been a case where somebody has got into a jail and tried to help a prisoner escape which your security might have picked up? Has there been such an instance?

Hon. Mr. Walker: The latter point is more difficult to identitfy. With respect to entering a jail, again at Ottawa-Carleton we lost a fair number of inmates one afternoon when there was a break out from the back of the building while the prisoners were in the recreation yard with a fence two or three storeys high and barbed wire at the top.

Mrs. Campbell: What role did the visitor play?

Hon. Mr. Walker: The visitor brought up a pair of large snippers and cut the fence. All this was done in a matter of seconds. You wouldn't believe it. In fact, there was an Ontario Provincial Police car sitting out in the front.

Mrs. Campbell: There's never a policeman when you need one.

Hon. Mr. Walker: That's how close police protection was, and it was done in a matter of seconds. They snipped the fence and took away, I think it was six inmates, some very serious offenders—some charged with murder.

It was rather interesting. They went down a ravine, got into a car that was waiting at an appropriate intersection and proceeded to go out on the highway. The policeman, by then—which I suppose would be two or three minutes later—had been alerted to all of this and raced out to set up the roadblocks. As the policeman drove by, this car merely pulled in behind the police car and followed it all the way to downtown Ottawa. The policeman was driving with flashing lights, and it was almost like a procession.

Mr. Ziemba: They provided the escort.

Hon. Mr. Walker: They provided the escort. They really did. They couldn't understand how these people got downtown so quickly. They told us afterwards that they followed the police car and had a police escort all the way downtown breaking the way.

Mr. Acting Chairman: Are you sure it wasn't arranged that way?

Hon. Mr. Walker: I almost wonder if it was arranged at times. However, that was one instance.

Mr. J. A. Taylor: Mr. Minister, the proposition you've been asked to comment on is the one that work expands to occupy the time of those available for its completion. Am I right?

Mr. Ziemba: That's right.

Hon. Mr. Walker: The new detention centres are all equipped with electronic machines that are just like the ones at the airports for picking up weapons going through. There's one at Toronto Jail as well.

The Toronto Jail, frankly, is our most difficult one, because it probably has the hardest level of criminals going through it—something those of us outside Toronto like to point to Toronto for.

Mrs. Campbell: They come from outside of Toronto.

Hon. Mr. Walker: I think I would probably have to accept that.

Mrs. Campbell: Maybe London.

Hon. Mr. Walker: No, never London. But outside of Toronto perhaps.

There are about 350 people and more than 100 a day moving through there in terms of turnover. Just the inventory control, if I can use that rather poor word, is very difficult. We do maintain very heavy levels of security at that particular building.

Mr. Ziemba: This has only started, and the problems that are created are twofold, to my mind.

First of all, on some Mondays there is a half-hour waiting period at the desk for the processing of this identification.

Secondly, I was told by the superintendent —and this does worry me, because the question of civil liberties arises—that the police want to be sure of the identity of visitors in case they want to talk to them at upcoming trials. As a result, a visitor may go to jail and find himself as a witness. Perhaps the public should be made aware of this, that they do risk becoming involved in the accused's trial simply because they're visiting him. It could be an innocent neighbour who dropped in to say hello and all of a sudden could be investigated and involved in something they didn't expect.

Hon. Mr. Walker: I don't know what the incidence of that would be. I would think it would be rather rare that someone's next-door neighbour would go to visit him and wind up being a witness some place outside the city.

I think the best answer to all this is probably your comment earlier that we should have posted outside the building some reference to the fact that visitors are required to be identified and that two acceptable forms of identification will be required. I think that's a perfectly legitimate request; just, basically, to make sure that the people going in are people we can accept.

Mrs. Campbell: Why stop at two? I don't understand, I really don't. I have to tell you that I had the courtesy of being allowed into the Don with only one piece of identification this year.

Mr. G. A. Kerr: That was probably the Toronto Star.

Mrs. Campbell: I just don't understand this two identity cards business; how it would have affected the escape in Ottawa from the back of the building.

Hon. Mr. Walker: If they had produced their identification to the officer on guard before they had snipped the fence, I am sure we would have delayed the escape.

Mrs. Campbell: But he didn't come to the front, presumably. I don't know, it doesn't make any real sense. How did you arrive at two? Why not 50 or any given number? It isn't really going to assure you of security, surely.

Hon. Mr. Walker: Mr. Duggan is outside calling for some information on that from the Toronto Jail. When he returns, perhaps he could take a moment to explain that.

Mrs. Campbell: I hope nobody gets into trouble because I was allowed in with one. That's without prejudice to those who let me in.

Hon. Mr. Walker: They always know their regular visitors:

Mrs. Campbell: I'm not that regular a visitor anymore.

Mr. J. A. Taylor: Just an honest, angelic face.

Hon. Mr. Walker: The Criminal Lawyers Association have taken issue with us on the matter of intermittent fees. They have said for several months that the matter is a fine, when we levy our fee for the service rendered; that it is in fact a fine and that we are not permitted to do that.

We have taken issue with the criminal lawyers and said that is not the case; that in fact the Ministry of Correctional Services Act permits fees or charges to recover costs incurred by the ministry. In fact, from a constitutional point of view, that is where the lawyers' association have attacked us. We have argued that we are fully within our constitutional right and we have that responsibility from the British North America Act which gives the provinces exclusive right to "establish, maintain and manage public and reformatory prisons." Maintain means through use of funds.

So we have argued our case that way, and we are satisfied we can sustain an argument before the courts. We have invited the Criminal Lawyers Association time and time again to challenge it. We would like to have the matter satisfied at one point in time. As a matter of fact, back in late October, within days of me becoming the minister, they indicated they were going to serve writs; they were serving all kinds of notice publicly that that was their intention, but nothing has happend.

I am meeting with the Criminal Lawyers Association board of directors at the end of April—April 26, I believe—when I am sure we will have a chance to discuss it further, and I am sure they will try to argue it further. We are certainly open to additional

argument; but, in the meantime, I would have to say that our position is that we are satisfied from legal research we have done, that we have the proper grounds for levying such a fee, and that it is a fee for service. We welcome the challenge before the courts so it can be properly adjudicated. We are quite comfortable that we will be successful on it. We have no doubt in that regard.

[4:30]

So that's the status of it at the moment. I can't offer much more than that; I would assume if the Criminal Lawyers Association is intent that they will, at some point of time, bring forward a proper challenge.

Mr. G. A. Kerr: Mr. Minister, do you find to your knowledge, up until now—this is a relatively new arrangement—that the length of the sentence is being affected in any way by the imposition of this charge?

Mr. Ziemba: Or failure to pay this charge?

Hon. Mr. Walker: We have no indication of that; no evidence of that whatsoever. In fact I would be highly sceptical that a judge would alter a sentence as a result of that. I just can't imagine it.

We have to keep in mind that people who receive intermittent sentences are individuals who have received it for a purpose invariably, and the purpose is always something like education or work. If it is education, we do not charge the fee. If it is work, we are satisfied we are within our rights to require the intermittent fee, which amounts to $10 on a weekend. We do not feel that that is a gross infringement on the individual's income and, in fact, does defray the expense of his day-to-day room and board with us.

Mrs. Campbell: But the fee is the same for everyone, regardless of the salary that they may have.

Hon. Mr. Walker: Yes. The fee is very modest; $5.

Mrs. Campbell: Yes, it is modest, but it could make a very much greater difference to some than to others.

Hon. Mr. Walker: A superintendent has discretion to modify the requirements in special circumstances.

Mr. Ziemba: What does the superintendent do if the individual refuses to pay the fee, does he not accept him in the institution?

Hon. Mr. Walker: I'm sorry, say that again.

Mr. Ziemba: In other words, when you say fee for service, you leave me with the impression that there is a service there that somebody wants to buy. Now what if I go to the Mimico Reformatory and refuse to pay the $10? What are you going to do to me?

Hon. Mr. Walker: You'd be awfully hungry by the end of the weekend.

Mr. Ziemba: Is that the way you do it?

Hon. Mr. Walker: No. We do not have difficulty in securing the $10 per weekend.

Mrs. Campbell: That sounds ominous! He means it is willingly given. Put it in those terms.

Mr. Ziemba: Have you had anyone who has refused to pay it?

Hon. Mr. Walker: Not for long, not for long. Seriously, there is not much difficulty with it. The point is one of remission and we consider this a contribution—I don't mean financial contribution, but a contribution to the issue of remission.

Mr. G. A. Kerr: Based on the principle of the user pays.

Hon. Mr. Walker: Basically, yes.

Mr. Ziemba: Well, just a minute—

Mrs. Campbell: Usually the user has some choice.

Mr. Ziemba: So in other words there is earned remission that can be taken away by the jail superintendent if the fee is not paid, is that correct?

Hon. Mr. Walker: Well, there is remission that may not be earned as a result of it.

Mr. Ziemba: Oh, I see. So you pay and you can get out sooner and if you don't pay you stay longer.

Hon. Mr. Walker: There is an optional arrangement. But remember, every single individual who is paying $10 a weekend is working. That's why he has that arrangement.

Mr. Ziemba: I am not a lawyer but you are in a really grey area there. You are not only imposing what I see as a kind of a surcharge — a fine, if you will — but you are also getting into the area of sentencing people.

Hon. Mr. Walker: No. The judge is in the area of sentencing—

Mr. Ziemba: No, but when you say that their earned remission may not be—

Mrs. Campbell: They earn it.

Mr. Ziemba: Well, their earned remission may not be—

Mrs. Campbell: It is an earned remission.

Hon. Mr. Walker: Well, it is either remission or not. In this case it is earned remission.

Mr. Ziemba: —will be forfeited.

Hon. Mr. Walker: This has been tested by the Supreme Court, the earned remission.

Mr. G. A. Kerr. What is the fee based on? Have you brought in regulation, or amended any legislation, to do this?

Hon. Mr. Walker: Yes, there is a regulation that applies. The fee is $5 per day, which is the same amount we charge anyone who works within our system. For instance, in the case of an individual who goes into a community resource centre, which is a half-way house, if that person is out working, as 95 per cent of them are, then that individual is required to pay $5 a day for room and board to stay there. We think it is the essence of responsibility that one of the first lessons of responsibility is learning to pay your own way.

Mr. Ziemba: It is regressive, because $5 is nothing to a millionaire. Why don't you charge one per cent of the man's annual wages?

Hon. Mr. Walker: That is true; it does not apply to millionaires in the same way as it would apply to others. But, by the same token, we are not talking about a person with zero income. We are talking about a person with usually a full week's income; that is why he has an intermittent sentence. Even a full week's income at the minimum wage — which does not really apply in many cases with us — is in excess of $130 or so.

Mrs. Campbell: You have said the superintendent has some discretion. What happens if a person has a family and there is some emergency? Is that excused or is it accumulated? What happens to that person?

Hon. Mr. Walker: The minister can exempt directly under special circumstances, and the superintendent can provide a certain form of exemption, as the case may warrant.

Mrs. Campbell: From my point of view, the charge is modest; there isn't any question about that. But the principle bothers me that if you have ample money you are not put to any kind of inconvenience at all with that kind of imposition. You can say, "You shouldn't have got into this mess in the first place," but neither should the person with a lot of money.

It bothers me a good deal that the principle is along the same sort of line as the former Treasurer's principle in the Ontario Health Insurance Plan, that no matter what your income is you pay the same premium, so to speak. But you say you have had a case where someone has refused and that has been tested?

Hon. Mr. Walker: No.

Mrs. Campbell: What has been tested?

Hon. Mr. Walker: The only thing that has been tested has been the question of earned remission. That has been tested before the courts.

Mrs. Campbell: But not in these circumstances?

Hon. Mr. Walker: No. The $5 per day as a fee for the service rendered, or for the board, lodging or food provided, has not been actually tested. That is the one we submit to the Criminal Lawyers Association, that should be challenged; and we would welcome that.

Mrs. Campbell: Have you looked at the money per day allocated by the Ministry of Community and Social Services for a person, and is it anywhere close for those who don't have very much money and may be working at a very modest job?

Hon. Mr. Walker: I am not sure I appreciate the question. All I can say is that, where the superintendent is satisfied, he can adjust the fee; he has that discretion.

Mrs. Campbell: I don't know now—I have been away from the area of the Ministry of Community and Social Services for a while—but it strikes me that the allocation for one individual in its formula for assistance wasn't anything like $5 a day. It seemed to me that, if you have that formula for the purpose of contribution by government to an individual, it might more closely be approximated for those at the bottom end of the financial scale in this situation.

As I say, I recognize full well that, basically, $5 a day is not an outrageous or exorbitant amount, but I could foresee some people having difficulty, if they have a family and they're working, in trying to maintain the family in the meantime; the family may not be eating at the same level as before, for instance.

Hon. Mr. Walker: On the other hand, in other years, the individual might well have been sent to jail for seven days a week, and the family would not be receiving any direct benefit from the prisoner's incarceration either.

Mrs. Campbell: That is true, and they would be on welfare at public expense.

Hon. Mr. Walker: On the other hand, if he were at home during Friday, Saturday, Sunday and part of Monday, there no doubt would also be an overhead cost for him being

in his home that would be at least the cost of some food, which I suspect would not be that far off the $10 figure; it might even be more than that. So there's a certain saving there.

I have an answer about the native persons employed by the Ministry of Correctional Services. You raised that question, Mr. Ziemba. We have 50 native officers; 21 are correctional officers, one is a maintenance plumber, one is a cook, four are probation officers, 20 are assistants to probation officers and three are rehabilitation officers. The total is 50.

To answer the Toronto Jail question: John Duggan has an answer. John Duggan is executive director of institutions; perhaps he could make that comment now.

Mr. Duggan: Mr. Chairman, it's not a standard procedure at the Toronto Jail that they require two pieces of identification. In fact, our manual of standards and procedures, which pertains to all institutions, states that the staff have to identify anyone that is visiting that institution on a visit.

What has actually happened to the Toronto Jail is that if they receive identification which they do not consider as sufficient—something like a letter, a bill-head or some such thing—they often ask for corroboratory evidence of the person's identification. For example, if they get a driving licence or something that pretty obviously pertains to that individual, or something with a photograph on it, then there would be no hestitation; they would immediately allow the visit.

I further understand that Mr. Ziemba's concern particularly related to the question of people who had to stand outside the Toronto Jail and were subsequently at the mercy of whatever weather was prevailing at the time. He discussed the question by telephone and personally with Mr. Starkie fairly recently and, in fact, they together worded a notice that they placed outside the jail informing people the identification would be required to save them, if they didn't have any, having to wait there long enough before they could get in and actually have a visit.

I believe that was one of your major concerns, Mr. Ziemba, and that has happened.

Mr. Ziemba: There was a sign nailed up. I didn't draft the wording of the sign; I'm not taking credit for it.

Mr. Duggan: I understand it was after consultation with you, however, that Mr. Starkie did draw up the sign.

Mr. Ziemba: But the day that I was there—it was a Monday—it was crowded and there was a waiting line at the desk; and they were asking for two pieces of identification—not one, but two. In fact, a volunteer from the Families and Friends Centre, which is in front of the jail, was telling people to bring two pieces of identification with them that day. If you have changed it now to one, well and good. But on that particular day they were asking for two pieces of identification—identification with numbers.

Hon. Mr. Walker: If we start lettering all our signs, we're going to have to take you on staff.

Mrs. Campbell: Well?

Mr. J. A. Taylor: Make him an offer.

Hon. Mr. Walker: I'd like to ask Art Daniels to come up. There are two points I would like him to respond to. One would be the question of native agencies that we fund, which will give some better picture of the fact that not only do we have 50 people working for us who are native but also we have even more service being rendered.

[4:45]

The second question is that involving probation and parole, and the increase we have there. I might mention with respect to probation and parole that within this budget, if it's passed within the estimates we have before you, we have been allocated funds to engage 52 new probation and parole officers or the equivalent; and Mr. Daniels wants to speak to you directly on that aspect of it.

We have also identified within the ministry a number of things that are concerning us. One is that 70 per cent of our probation officers' time is spent on completing presentence reports for the courts. We are doing something like 15,000 pre-sentence reports a year. We are attempting to encourage judges to use fewer pre-sentence reports in favour of stand-down reports, which can be prepared in a matter of minutes or hours by verifiers within the court—to use that kind of approach. We are trying to encourage them to make the decisions, wherever possible, during that particular day.

We think we can expand the capacity of our probation and parole service by eliminating unnecessary forms. We have a committee within our ministry working immediately on the question of eliminating forms that probation officers would have to complete and send in so that we are not part of

the problem in terms of unnecessary information being required. In addition, we are trying to contract the number of pre-sentence reports. Not all judges, but some judges are interested only in the last paragraph; if we can communicate that last paragraph to them without the necessity of six typewritten pages of prior material that has taken a long time to gather, we can enlarge the capacity of the probation and parole officers such that they can cope with more of the problem. That, plus what Mr. Daniels is going to speak about, I think will solve a lot of difficulties. Maybe, Mr. Daniels, you should touch on the probation and parole first.

Mr. Daniels: Regarding probation and parole staff; again as regards the native group, if you looked at the raw staff figures, you would question the rise in count versus the number of staff increases. But if you look at the private agency contracts, which have increased in the probation and parole area, you will see that the workload has been dispersed to private agencies and that the workload has kept pace.

The actual figures on probation are pretty heartening. In 1974, there were 258 probation officers. As a result of this year's increases and last year's increases for parole takeover, we have 368 probation officers, which is a 70 per cent increase.

In addition to that—the minister alluded to this earlier—we have 25 new contracts with private agencies. The John Howard and Elizabeth Fry societies; in native areas, Nelson Small Legs, Youth in Conflict with the Law in Kitchener—all these agencies provide us with man-days. I did a rough figuring that about 150 additional man-years of professional help have been added by the use of private agencies such as the Salvation Army and the John Howard Society, which have taken on parole supervision, or which man the community service order program—that's shared by all types of private agencies, both small volunteer agencies and large ones like John Howard and Elizabeth Fry.

With those things added together, our manpower is up and keeping pace with the rising number of clients. There is a better use of staff. It spreads them out; we can put them in the right places. We can actually employ part-time people in small communities this year rather than having full-time officers in locations like Wawa, Marathon or Iroquois Falls.

With affirmative action, a lot of professional women will work for us for 24 hours a week in those core hours and provide probation services, volunteer co-ordination and community service order programs. We can mount that kind of program in a very small community with a part-time officer.

I think the staffing in probation is growing all the time and, with the use of private agencies, it's very adequate.

I want to add one other point on the probation staff to those the minister made, and that is the elimination of administrative work. Probation staff are directing themselves to more of the street work, working with the client, and are moving to offices operating on a team basis, with the office as a team as opposed to each officer carrying a client load, which is the normal social work model. We are moving more and more to an office with a client load and they deliver a special program, a driver-education program, an alcohol-awareness program, or a drug program. You just add up 15 or 20 programs in one office, reaching out to the community, tying the probationer to the private agency services. It is a pretty exciting time in probation.

Mrs. Campbell: May I ask two questions? One is about the Nelson Small Legs Foundation: How is that one working out? I have a personal interest because I was involved in the initial stages of trying to get funding.

Mr. Daniels: This overlaps with the next question on the native work problem in Toronto—the native inmates and the native parolees. Nelson Small Legs really helps us on two levels.

Mr. Ziemba: Before you get into that, may I ask a question on the probation officers? While you have increased the officers by 25, your target is still awfully high compared to last year. I don't want to get into this vote, but your target is 97 cases per officer. Isn't that kind of high, though?

Mr. Daniels: Yes, that is high; but you blend in the 50-odd private agency contracts, and they handle massive numbers of the caseload.

Mr. Ziemba: This is overlapping there, is that what you are saying?

Mr. Daniels: There is not overlapping. Actually, we take our entire caseload, divide it by the number of officers, and that is where you get the 97. If you added in the John Howard contracts, and the E. Fry contracts, you would bring that per-officer load right down.

Hon. Mr. Walker: This might be an opportune moment, while we are into the native area, to show you about six slides on

the native mobile community resource centre, which I think offers one of the most promising things of this ministry. I have toured this particular site. It is located up in Red Lake, which is a long way away. I think it is further from here to Red Lake than it is from here to Miami.

Mrs. Campbell: Have you measured the distance both ways?

Hon. Mr. Walker: No, I haven't been to Miami, but I have looked at it on a map. I did get up to Red Lake in the middle of February and I was most impressed by what we are doing there. We will just go through it here and perhaps discuss a few points about it at the end. The success rate with some of our native inmates is, I think, as good as or better than we have in other areas.

The committee watched an audio-visual presentation.

Hon. Mr. Walker: One can be very impressed with this particular CRC.

While I was there, I presented two certificates to two inmates who had completed 520 hours of bucking and skidding. That has something to do with getting logs out of the bush. These certificates were worked in conjunction with the community college at Thunder Bay, Confederation I believe it's called. Canada Manpower was a part of it and paid part of the program. We were also part of the financing of the program.

By this particular approach, a private entrepreneur, a local logger, in effect uses the native CRC team as one of his teams, and he pays $12.50 per bush cord to the individuals. In a normal day it's not uncommon for a productive person to put out five cords. From that, of course, he has to pay the usual fees for staying in a community resource centre.

That one is working very well. With the follow-up the native leaders are doing, they've discovered these people are going back into their communities and actually going into productive work. The one thing we've found is work is a common denominator in avoiding recidivism. All we can say is that as a model we recommend it. The first few years of it are very impressive. We're quite happy with the results.

The number varies. The people come from the Kenora jail and they must request to go there. They put in an application and then they move forward about 60 miles from Kenora up to Red Lake. It's in the bush about two or three miles outside Red Lake.

Each day, the local contractor comes and picks them up and takes them 20 miles or so down into the bush where they perform the same work for him as people who are not inmates and who are working in other crews. He has supervisors. We're very impressed. That's one of our most successful models in this province.

Mrs. Campbell: What is the corresponding program for female native persons?

Hon. Mr. Walker: In Thunder Bay we have the Native Women's Community Resource Centre. Mr. Ziemba has been there. I can't say we've had as brilliant a success there as we've had out in the bush with the camps.

I visited back in November and there were four or five women there during that day. They had come from Thunder Bay Correctional Centre or from the Thunder Bay jail. They were working in various jobs. You have to realize that most of the jobs were not very sophisticated, like a librarian's or a secretary's. They were more the kind of tasks needed to be done around homes, assisting in homes.

[5:00]

We would have to say that we have not had as great a success in that area as we've had with the men in the CRC at Red Lake.

Mrs. Campbell: And you would find, I suppose, that you had a good explanation for that. It isn't an imaginative program.

Hon. Mr. Walker: That's true. I think it's because we don't have enough imagination to come up with a better program. We don't have a better one to put in place. If you do have a suggestion, we would welcome putting it in place.

Mrs. Campbell: It reminds me very much of the days when Mr. Apps was minister and he was talking about the great program for boys in the north, the camping situation and so on. But when you asked about a similar program for girls, there was hope that some time it would be put in place. It always interests me that we don't seem to have the same imaginative approach for the female offender as we have for the male.

Mr. Daniels: With the potential exchange agreements between the federal government and ourselves, we're expanding the female resource centre quite extensively, not just for native women but for all women. There will be a centre in Toronto and one in London. The Elizabeth Fry Society – Ms. Sandeman has left – has just signed an

agreement with us providing for temporary absence for women across the province of Ontario, particularly the native ones. It is operated by the Ontario Native Women's Association, it's not operated by the ministry.

Ms. McCloud, who operates it, I think can be an imaginative person. If any of us suggests any changes or any ideas, she would probably amend her program and develop one that best suits the natives, because she herself is a native woman, I think.

Mr. Ziemba: I agree with you, Mr. Daniels. She is creative in a very—I've met very few women like her. She's a living saint; a very warm, compassionate woman and a caring woman. But there are no jobs there. The only kind of work available to the native women is generally housecleaning.

Mr. Daniels: Domestic work.

Mr. Ziemba: That's all, to go out and clean somebody's house.

I suppose there's an employment problem with women generally in Thunder Bay, much less women offenders. But certainly your ministry could provide more funds for upgrading programs and skills training, that type of thing. The women offenders could receive training. If there isn't work for them to do, maybe they could get basic skills training that could equip them for a job upon release.

Hon. Mr. Walker: You've raised some good points. I think we're fortunate in having Sylvia Nicholls from Vanier here who might be able to share with us some views that would be very useful to this discussion.

I'm wondering—it's basically on this vote —if we could consider taking a look at the slides we have on Vanier, then have Ms. Nicholls come forward. Perhaps you would then like to pose some of the questions again. If we could do that—

Mrs. Campbell: I'm sorry, Mr. Chairman. I don't want it to be thought I'm not interested in Vanier. But I do have a commitment that I must keep.

Mr. Daniels: While we're waiting for the slides to come on, you were asking us, Mr. Ziemba, about some native agency contracts. I think we can tie that up at this time. Nelson Small Legs Foundation has a visitation program in Toronto, and we are also in the process of signing a contract where they will supervise native parolees in the city of Toronto and Hamilton. We have a contract in Pikangikum, a joint contract with the native alcohol abuse program to work on alcohol abuse, parental programs and gas sniffing in the northwest. There are a few more which I will get to later.

Hon. Mr. Walker: Can everybody see? The first slide we have is one of the exterior of Vanier Centre for Women in Brampton, undoubtedly one of this ministry's successes. You will have read in the papers about the Kingston prison for women, I am not about to comment on the strengths and shortcomings of the federal system, but I do want to assure you that if and when we receive inmates from the federal system it will have to meet our standards. We have first rate programs provided in Vanier and I would now like to show you the facilities we offer there. This centre opened in 1969 to replace the Mercer Reformatory as Ontario's principal female correctional centre. It is, of course, named after the wife of our former governor-general, Madame Vanier.

Ingleside is the minimum security cottage outside the Vanier perimeter fence. It is a community-oriented cottage and the base from which residents go to work or education on a temporary absence program. The initial admission assessment and orientation cottage is Timberlea. Here, new residents spend their first two or three weeks. Following a medical, a disciplinary team completes an assessment of the inmate which is the basis for a decision by the placement board of senior staff as to where in the complex the inmate will live and what work she will undertake. The three other cottages within the fence are Invictus and Kontiki, which have group oriented programs, and Hochelaga, which is activity based. All have 24 single rooms. They share a health centre, a chapel, a meeting room, a library, a gymnasium, classrooms and industrial work areas.

In typing instruction, a typing and secretarial instructor gives individual attention to a student. Classes are usually small enough for personal tutoring of this kind to be feasible. Hairdressing and personal grooming are taught, not only as useful skills on the job market but also because self-image, so important to rehabilitation, depends upon a positive physical response on the part of the resident. Body and mind move forward together in their approach to a new start.

No home-making skill is more important than cooking. Many of the Vanier residents have spent most of their lives as customers of fast-food outlets; home cooking is a novelty at first and then a prized skill to be acquired. Similarly, to a woman who has

bought all her clothes off the racks in the big stores, the possibility of making one's own clothing and household furnishing comes as something as an eye-opener. Just as much as teaching a skill, we are changing a point of view by exposing our residents to these possibilities.

Our industrial dry-cleaning operation is run on commercial lines and the training a resident receives here is directly applicable to future employment, as well as serving the needs of the centre in a very practical way.

These students are learning graphic arts in a co-educational program run at the neighbouring Brampton Adult Training Centre. We do teach spelling, too, but I guess we don't always catch them in time —this picture shows a notice spelling the "dining" room, which I guess is the "dinning" room.

Here is the simple, quite basic lounge in the cottage. This room will also be used for daily meetings of the cottage group to discuss living difficulties and inter-personal problems that have arisen or are developing between the residents.

Here is a typical individual room in a cottage; it is simple but cosy, and has all the essentials. Residents are allowed to add personal touches — photographs, trinkets, posters — within bounds which are decided within the cottage.

One-on-one counselling can happen at any time, just when the resident needs it most. Informal therapy of this kind is possible because there is always staff on duty in the residences and help is only a few steps away. This means that individual crisis situations are largely avoided. We are proud of our developing Vanier Centre programs and I would like you all to pay the centre a visit at your convenience. Now, Sylvia Nicholls, I wonder if you would come forward. Sylvia is superintendent of Vanier, and I think she would be glad to answer questions either of the critics may have.

Ms. Nicholls: I would like to say again that anyone who would like to come to Vanier is welcome, as long as we have just a week's notice. We have lots of tours coming through, and anyone is welcome to come for a tour.

Mr. Acting Chairman: Mr. Bradley, do you have any questions? Mr. Ziemba?

Mr. Ziemba: Yes, we heard in the last estimates that Mr. Drea was considering increasing the security at Vanier. Is that still going on?

Ms. Nicholls: We have made some minor changes in the security, but there are not many necessary there. There are going to be some minimal changes with the supervised entrance, which is the entrance where the electrical doors enter the main facilities. Apart from that we have placed a fairly attractive grille on the windows of the cottage units. This is basically just to ensure that the females do not get out through the windows. What was happening before was that some of the youngsters were tearing the very fine metal screens that are in the unit windows and it was becoming quite costly. Fortunately, it hasn't created too poor an aesthetic look to the units. Basically that seems to be the major security change we have had.

Mr. Ziemba: What is your resident count there right now?

Ms. Nicholls: Today the count is 87; that includes one remand. Our capacity at the institution is 130—that's 120 plus 10 remands.

Mr. Ziemba: So you could take the women who are Ontario residents and in Kingston now if you are assigned them.

Ms. Nicholls: We could take the residents who were classified to come to the Vanier centre. We are fortunate we have other facilities within the province also which can take some of the women who may need to become maximum security women temporarily and gradually move into the Vanier centre.

Mr. Ziemba: I see, so yours would never be a maximum security facility?

Ms. Nicholls: We do not anticipate that, although there are many options. If one of the options was that because we have a large amount of land there would be a need to have one security unit, then we could move in that direction if it was felt economical to do that.

Mr. Ziemba: Eighty residents, and some of them are on temporary absence, is that correct?

Ms. Nicholls: We have a very large temporary absence program. I have some figures if that would be helpful for you.

In 1978—that was from January 1, 1978, to December 31, 1978—we had 1,598 temporary absence permits go out through Vanier centre. That included 543 individual and recurring temporary absences; 816 which were group temporary absences, that's groups of women perhaps going out with, say, the recreational staff into the local community; and we had 239 going out either to

the community residential agencies for an assignment to go out to the agency and also for pre-releases.

Mr. Ziemba: What is the average stay?

Ms. Nicholls: The last research we had it was approximately between four months and six months. But it does look like the sentences are getting a little lengthier now so it is probably going to change.

Mr. Ziemba: Someone, I don't know who, said that at three months it seems to result in a lower recidivism rate. Have you heard about that?

[5:15]

Ms. Nicholls: Yes, that was found with the research that was done in, I believe, 1972. It wasn't three months. What they were indicating was six months and over is preferable for sentencing for a female offender because it appears that if they are in for that period of time or longer the recidivism rate lessens. And they lessen in returning to the institution, because of that, within the two years.

Mr. Acting Chairman: Any further questions?

Mr. Bradley: Yes, my question relates to an issue that was raised last year with the former minister and that was concerning the kind of personnel available. There seemed to be a significant reliance on casual or contract social workers, and not as many permanent staff as some would have desired. Has that changed?

Ms. Nicholls: There has been a change in the staff, and I have the most current breakdown, if you would be interested in that.

Our correctional staff in total—that is the various ranks of correctional officers—is 73. On our clinical staff we have two social workers, and we have a psychologist.

Mr. Ziemba: No teachers?

Ms. Nicholls: Oh yes, we have teachers. Perhaps I could run through the whole list if you wished me to do that.

The teachers we have at the moment are a part-time art teacher, and four regular full-time teachers, and one school principal.

To answer the question about the casual staff; that has been cut back, but very minimally, and we only use the casuals when we need to for overtime.

Mr. Acting Chairman: Anything further? I believe we can now move into the votes.

On vote 1601, ministry administration program; item 1, main office:

Mr. Bradley: How late are we going today by the way?

Mr. Acting Chairman: We are sitting until six o'clock. Are there any questions under item 1, main office?

Mr. Ziemba: Is it six o'clock, Mr. Chairman?

Mr. Acting Chairman: It looks like it's six o'clock. Are you suggesting I should see six o'clock? You are rather limited in the number of hours you have left, I believe. Perhaps the clerk can advise us. We have approximately five hours. I am in the hands of the committee, however.

Mr. Bradley: What was our final decision regarding the allocation of time for the visit to Guelph?

Hon. Mr. Walker: Two and a half hours.

Mr. Ziemba: It could be all day though.

The committee adjourned at 5:19 p.m.

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Government Publications

Ontario

No. J-3

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of Correctional Services



Third Session, 31st Parliament
Friday, April 6, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 11:25 a.m.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

(continued)

On vote 1601, ministry administration program; item 1, main office.

Mr. Chairman: I recognize a quorum. We have one substitution, Mr. Johnson for Mr. G. Taylor.

Under the new standing orders, the chairman of a committee considering estimates shall apportion the time available among the minister, the opposition critics and all other members. Latitude is permitted on the first vote to the critics. Thereafter, members have to adhere strictly to the particular item. Mrs. Campbell has expressed some concern that she has a couple of items that are on a vote later on. Since neither of the opposition critics is here at the moment—one of them, I know, is detained in the House—I would ask permission from the committee to use a little flexibility and allow Mrs. Campbell to ask her questions.

Agreed to.

Mrs. Campbell: Mr. Chairman, thank you very much. First of all, I have a specific question. I received a complaint from the Don jail with reference—

Hon. Mr. Walker: Excuse me just a moment, Mrs. Campbell. I am looking for one individual, Mr. Duggan, to be present. Can you locate him please, Dr. Humphries? He is just outside in the corridor, I believe. Please go ahead and we'll relay the question.

Mrs. Campbell: I believe there were two guards who were suspended last year and that nothing seems to have moved towards some resolution to the problem. I was not able to get the full details, but I wondered if anyone can answer as to what the disposition is or why there is the delay because it is a long time to be hanging in limbo.

Hon. Mr. Walker: At the Don jail?

Mrs. Campbell: Yes.

Hon. Mr. Walker: Mr. Duggan has just arrived in the door. Mrs. Campbell has made an inquiry about two correctional officers suspended last year at the Don jail and said that nothing appears to have been happening with respect to the matter being dealt with. Do you have any information on that? Mrs. Campbell does not have the names.

Mrs. Campbell: No. I tried to get some resolution through the Attorney General's office as to whether or not there were charges pending or what the story was, and they couldn't give me any information either.

Hon. Mr. Walker: Mr. Crew, the personnel director, is here. Can you take a microphone, Mr. Crew?

Mr. Crew: Mrs. Campbell, I am not certain of the two particular cases of which you are speaking. I suspect it's possibly two of the officers who were involved in the disciplinary action that resulted from the Shapiro report of the Royal Commission on the Toronto Jail and Custodial Services. A number of officers were disciplined as a result of the findings of that royal commission, 20 in total. Of those 20, 11 grieved their disciplining. Three of those 20 were dismissed, nine received disciplinary suspensions and eight were reprimanded.

Some of those grievances have been to the grievance board. However, there were preliminary objections before the board. As a result, the question of the admissibility of the Shapiro report as evidence in the grievances has gone before the courts and that matter has not yet been resolved. That is the reason for the delay. So there are three officers who are now dismissed from the service who are grieving their dismissal.

Mrs. Campbell: These were suspensions, as I understood. I thought they were quite apart from the effects of the Shapiro report, according to the person who gave me the information.

Mr. Crew: I see. I would be happy to check into that for you.

Mr. Lawlor: That's the Toronto Jail.

Mrs. Campbell: The Toronto Jail. It's always the Don to me. I want to preface my remarks on the next matter by expressing my deep appreciation to both your executive assistant and your medical adviser. They

gave me generously of their time in discussing a very real problem, and I understood the answers they gave me.

[11:30]

If a person is properly on some medication that is important to the health of the person, my understanding is that you have different policies as would relate to the Toronto Jail as against detention homes. It is perfectly understandable that you are worried about narcotics, and I see that. But is there not a way that you can try to correct procedures to enable people to get the medication at the east or west detention centres, even though it may contain some narcotic? Could that be reviewed? It seems wrong to me that there should be a problem; yet I understand there could be misuse or abuse of that medication.

Hon. Mr. Walker: I wonder if Dr. Humphries might come forward to help us on this question.

Mrs. Campbell: He gave me a great deal of help, and I understood the problem. But I would like to see whether there isn't a way to alleviate that situation.

Hon. Mr. Walker: Dr. Paul Humphries is the director of institutional program support services, as well as being our senior medical consultant. He is a psychiatrist.

Mrs. Campbell: He was great that day.

Dr. Humphries: Thank you very much, Mrs. Campbell. Your comments are most appreciated. We definitely have a policy as it relates to the use of medication throughout the system as a whole. If there is any indication at all that the individual requires medication, then I would always want to ensure he got that medication. If that individual didn't, I personally would be concerned, and so also, I am sure, would members of the ombudsman's office if it came to their attention.

We do wish to keep as low as possible the use of narcotics, sleeping pills and tranquilizers. If we don't, they can be used as barter within the system and it can create all kinds of problems for us. With this in mind, we have sent directives out requesting that the use of these medications be kept to a minimum.

If it appears that the individual is going to require these medications on a long-term basis, we would like to have them properly assessed by a psychiatrist to see what the needs are and if there are other ways of handling the problem, short of using medication. If not, then medications are fine.

Yes, we do have a different type of drug use between the Toronto Jail and some of our other institutions, just as I think you would also find a difference in drug use at the Guelph Assessment and Treatment Unit and the Ontario Correctional Institute as it relates to other institutions. For instance, at the Toronto Jail this is, if you want to call it such, a holding area while we are waiting to have them assessed at the Metropolitan Toronto Forensic Service, the transfer back and forth. All the inmates we have throughout the Toronto system are taken to the Toronto Jail before they are taken over to Metfors for investigation.

In our mind, this is a very anxiety-producing time, either just prior to going to court or after being sentenced and coming back and knowing where they are then going to be sent. As a result of that, it is my expectation that the use of these kinds of drugs would be a bit higher in the Toronto Jail, and in GATU and in OCI, than in some of our other institutions.

Mrs. Campbell: But in the case in point we weren't talking about tranquilizers, were we?

Dr. Humphries: That is correct. As I say, if an individual is not getting the medications we feel he should, as you know from that day, we would very soon correct that. Each of our institutions has its own doctors, who are community doctors paid on a contract basis. We like to do it this way, because then we feel the treatment being provided in the community is also extending into our jails, and vice versa.

We recognize that each doctor has his own method of treatment and, as much as possible, we try to leave it to their individual discretion. Otherwise, if we start to criticize and suggest that we are not happy with the kind of medicine they are practising—if that was the case—then I can assure you they wouldn't be with us too long.

Mrs. Campbell: I was appreciative of the solution, as you very well know. But if that was the general solution—simply to move the person—I wonder if it is addressing the problem. That is really all I am trying to get at.

Dr. Humphries: Yes, and if I were to take that case further, without naming anyone, that case, as I understand, was going into the penitentiary system for a longer period of time. If that individual had stayed with us, it would have been a case where we would have had a psychiatrist see that individual to work the problem out. As you remember, the medication complained of was in fact a tranquilizer, I believe. Valium, was it not?

Mrs. Campbell: No, I didn't think it was; I thought is was related to the asthma treatment.

Dr. Humphries: That was because he was using an inhalator and the people at the east detention centre had not prescribed it for him. They wondered how he ended up in the institution with it. But as you and I both know, it had been prescribed earlier in the system and transferred with him.

Mrs. Campbell: It is just interesting to me. I thoroughly understand the problem and I think I have expressed that. But I thought it might be something you could look at, that is, to see whether there isn't a way of making it more appropriate. In this case, the solution was to move the person.

Hon. Mr. Walker: We shall certainly retackle the matter with a view to finding a better operating approach. We recognize the problems of imposing a set of policies on the way a doctor may behave with his patients. But recognizing those limitations, we shall certainly take another look at it. If there is some improvement to be made, it will be made.

Mrs. Campbell: Thank you very much.

My last question: I have felt for a long time that this ministry might become more involved in research than I think perhaps it has the opportunity to do today. My particular question really applies to Vanier and to those places where women are incarcerated.

It seems to me, looking at what happens in a family court and the kinds of abuses that come to light there, that it would be useful for all of us if some kind of study could be undertaken with the co-operation of the women in these institutions to determine to what extent any or many have, as children, been victims of some kind of sexual assault. The fact that we lost sight of these victims was something that worried me in the family court.

I am only mentioning the women because I think it is an easier starting point, in some ways, than to look at the whole population. But I think it might be useful, both for proceedings in the family court and perhaps even more the Criminal Compensation Board. I am very grateful to Mr. Grossman. I have been discussing that with him and he has now embarked, I think, on an almost new program for compensation of this type of case. But it does seem to me that we need some statistics, some examination of whether or not there is any relation to those women who are in institutional care.

Hon. Mr. Walker: Not quite on the point, but Dr. Jim Hug is our director of planning and research. There is a study not too far away from being printed which touches on this. I would like him to share that with you.

Dr. Hug: Just backing up a bit, Mrs. Campbell, there was a major research investigation completed into the entire set of Vanier programs in 1973 approximately. Unfortunately, the specific question you are interested in was not part of that study so we can't go back and have another look at those data. The study the minister just referred to is something related to the whole broad area of unique problems for female offenders, specifically child-care arrangements and the problems that might be exacerbated as a result of being placed either in an institution, or even on probation. The study is looking into child-care arrangements for female offenders both admitted into Vanier and also placed on probation. The report will be completed in approximately two or three months. We will be happy to keep in mind the specific question in which you are interested as a future research project, but there are no data.

Mrs. Campbell: How far in the future, sir?

Dr. Hug: It is really hard to anticipate. It could be commenced this very year, and perhaps it would take approximately a year or even a bit less to complete. The point I was trying to make was in the case of some of our research projects there is a greater mass of data than what appears in the printed report. I know the printed reports are circulated to all three of the caucus offices and particular members, such as Ms. Sandeman, who had expressed a desire in the past to receive her own personal copy of these research reports. We do this now. In some cases, there is more material available than is in the published research report and we can go back to our computer tapes and reanalyse, but unfortunately in this case we can't.

Mrs. Campbell: From your experience would you think that would be a valid study? In a family court you have a contributing charge, therefore before you is probably a father, most often a father-daughter relationship. The child becomes lost in the whole situation. The father is dealt with, but the child really isn't, because there is a gap. It has concerned me when I have seen some of the children who are older but still within the juvenile framework before a court. It occurred to me then, and I tried to get some kind of study going, to see

whether there is any impact so far as these women are concerned. I believe there is, but that's from a great wealth of ignorance in the adult situation.

Dr. Hug: I share your conclusion. At the risk of prejudging before the data has been collected, I wouldn't be too surprised if your hypothesis is borne out. I know, generally speaking from our research studies into both adults and children, while we still have the training schools within our ministry, there is a whole host of family problems that are much more represented in our institutional population than society at large. There are a lot of unstable family relationships; a much higher incidence of single parents; a much greater incidence of utilizing family mental health clinics and this type of thing. Even though we have no data on this specific problem, there is evidence that any general problem is much more apparent in our population than the rest of society. I would be happy to get such a study under way in this coming year.

Mrs. Campbell: I am most appreciative, Mr. Chairman. I had asked for it before, but I hadn't seen any results. It does seem to me that it might be one way of cutting down, at least to some extent, the female population if there could be a look early at that child with all of the jurisdiction of the Criminal Injuries Compensation Board to bring assistance.

[11:45]

I have discussed with Mr. Grossman that I don't think in these cases the appropriate decision is a lump sum kind of settlement for that person, but rather an ongoing kind of look at just what is happening to them and to bring the facilities of our community to bear early enough that it might bring some help.

Mr. Lawlor: I just have a question. I don't know if it's been asked. Looking at these figures, the 1977-78 actual figure was substantially less than the estimate. Starting at a base of $872,000, you're up to $955,000. Can you justify that figure?

Hon. Mr. Walker: You're looking at vote 1601(1)?

Mr. Lawlor: That's right.

Hon. Mr. Walker: Your point is that the 1977-78 actual figure was substantially less than the amount estimated, and presumably passed in that year.

Mr. Lawlor: You're on the usual roller-coaster situation, where you estimate high, come in low and then estimate high again. There's a year in between. We don't know the actual figure. Or have you got the actual figure for 1978-79?

Hon. Mr. Walker: I think you would have to refer to the reconciliation statement found on page J53 of the estimates book to get a complete answer. Much of this has to do with a total reorganization of the ministry, which occurred during that period. Mr. Mike Algar is with me. He's the executive director of planning and support services. I would ask him to do the reconciliation.

Mr. Algar: Mr. Lawlor, if you will turn to page J53, you will see in the reconciliation statement there was a transfer in actual fact to ComSoc of $37 million related to the transfer of the juvenile division. At that time we transferred around 20 per cent of all the support services' budgets to ComSoc at the same time. That's the reason for the quite large underspending in that vote at this time. I don't have the actual spendings for this year, unfortunately. It's only April 5 and we haven't yet closed off our books.

Mr. Lawlor: I'm surprised.

Mr. Chairman: Further comments?

Mr. Lawlor: Would the grant to the Canadian criminology and corrections association—I haven't got the previous year's—was it $18,000 last year too?

Mr. Algar: Yes, sir, it was. I'm sorry. It was $17,000, as I recall.

Mr. Lawlor: Yes. You increased it a bit. Do they submit reports to you? What do you get back on that?

Hon. Mr. Walker: It's the only national body to which we belong. It's actually called the Canadian Association for the Prevention of Crime. I think that's the official name of it. It's basically the only professional operation to which we belong. We receive a certain amount of value out of that.

Mr. Lawlor: I want to know what the certain amount of value might be.

Mr. G. R. Thompson: The association has existed, as you may know, Mr. Lawlor, over many years, and has participated in consultative studies on the total correctional program in a number of provinces, the most recent of those being Newfoundland. But it has done similar analyses out in Alberta and a variety of others over the years.

They serve both as a catalyst for change in the criminal justice system and also they have a highly qualified group of staff whom they allocate out to do such studies at the request of various ministries across the coun-

try. I think it would be difficult to itemize the particular results for this province, as it would I think in that part of our budget that goes to organizations such as the John Howard Society or the Elizabeth Fry Society for their core funding. Those funds are very often used to provide a catalytic kind of impact for change in the whole of our system.

This organization at a national level is attempting to do the same thing. Its parallel in Britain would be the Howard League, which serves the purpose there.

Mr. Lawlor: Just in a general way, if I may. It strikes me there is voluminous and penetrating work being done, particularly in the United States, with respect to criminology, with respect to incarceration. I saw, and I got from your library—I haven't got it with me today because I'm supposed to be somewhere else—

Mrs. Campbell: Our leprechaun.

Mr. Lawlor: —the large volumes analysing psychiatrically and otherwise the mentality of criminals. Do you know all these works? Sometimes in your annual report, which I just glanced through, it might be a good idea to make some mention of new developments in the field, apart from the structural changes that apparently Frank Drea thinks are revolutionary.

Where the real changes are going to come is in the approach and appreciation and the assessment of what is happening in, first of all, that whole psychological area, which interests me intensely. It's part of the psychotic personality of our time.

Hon. Mr. Walker: Soon to be a paperback.

Mr. Lawlor: More than a part et cetera. I'm just wondering, tying it in here with the Canadian criminology, I take it there are conferences you have representatives at, that this literature of which I speak is a prime subject for discussion at those things. Could you give me a bit of a background about what you do?

Mr. G. R. Thompson: I think it might be of interest, Mr. Lawlor, for you to be aware that the parallel group to the Canadian Association for the Prevention of Crime, the American Corrections Association, is going to be meeting here in Toronto in two years' time and will bring something like 5,000 people from across North America—

Mr. Lawlor: Are you host?

Mr. G. R. Thompson: Yes, in part, with the government of Canada. I think that type of meeting is evidence of both the desire of the government of Canada and our own to try to create that sort of cross-fertilization of ideas in our field.

There is a great deal of varied information, as you know, coming out of different jurisdictions across the world on what one should do with the offender and how best to do it. As well, the Canadian Association for the Prevention of Crime has its meeting in Halifax this July and we are sending representatives there. Some of our staff, such as Mr. Duggan, are going to be speaking there.

Those are the occasions, I think, that bring correctional jurisdictions together and allow them to share any of the results of the new programs that they have in action. We're quite proud, I must say, of our research efforts into the programs we're conducting, the operational-type research, where we try both to tell ourselves and others what feedback we're getting out of various programs we attempt.

Mr. Lawlor: This $18,000 is, I take it, in a sense your entrance fee.

Mr. G. R. Thompson: It's an ex gratia grant to organizations, similar to the ones that are noted later in these estimates as I mentioned earlier.

Mr. Lawlor: Do the other provinces give a commensurate amount?

Mr. G. R. Thompson: The federal government does and I believe most of the provinces do, perhaps all.

Mr. Lupusella: If I may, I would like to pursue this issue about the prevention of crime. One of the questions I would like to raise to the minister is to find out whether or not his ministry is in some way engaged in any concrete program with the Solicitor General (Mr. McMurtry) about prevention of crime. It appears to me that the only thing I see on television is just a general message paid for by the Solicitor General in relation to break-in crimes.

I am just wondering whether the minister is going to take this item seriously in order that the public can be educated in relation to prevention of crime. I don't think the program on television coming from the Solicitor General is quite effective. I am just wondering whether the Ministry of Correctional Services has some concrete program. I would like to have details.

Hon. Mr. Walker: It is certainly within our mandate, as the Ministry of Correctional Services Act indicates, to attempt to prevent crime. It is a bit of a tall order in many respects because we are in many respects the holding tank for other ministries. Under the Ministry of the Solicitor General, the police arrest the individual. The whole system in the

Ministry of the Attorney General is geared in many respects to putting the person to justice.

Mrs. Campbell: Not to justice but to law.

Hon. Mr. Walker: To law. A good many of them are incarcerated and invariably justice is done. For a good many of them we are the recipient ministry. So in many respects they flex their muscles and we feel the pain. Consequently we receive the individuals at a certain point of time.

It is our responsibility what we do with someone when he is eventually committed to the system. When they are committed to the system we have a number of areas where we attempt to prevent future crime. One is the whole concept of jail itself which to some extent has a certain deterrent value—and it has to be admitted, not 100 per cent—in that going to jail keeps a lot of people more honest than they might otherwise have been. Secondly, we have to deal with the people on an individual basis.

Mrs. Campbell: That is a broad generalization.

Hon. Mr. Walker: Yes, it is very broad. I am not for a moment suggesting that it has any precision. The second thing is that we try to deal with them in an effort to rehabilitate individuals. A lot of our money is committed to just that purpose. Probation and parole are ways in which we attempt to rehabilitate individuals. A great deal of money is spent in that field—some $10,000,000 a year.

Thirdly, we have embarked on a community service order concept which we fund. It is a new approach, not totally new, and for Ontario it is one that is gaining quite a bit of acceptability. Today, this very day, we have 1,000 people who are on some form of community service order. In other words, rather than having sent that person to jail, the judge has deemed it appropriate to consider a community service order. Our ministry people have usually, in 90 per cent of the cases, designed the particular community service order for the individual. That is taking a fair amount of our resources.

The community service order, we think, makes the individual more responsible for his crime; it makes him feel the crime more directly and realize there are responsibilities. In the victim-offender reconciliation program that we have going in the Kitchener area, where victims and the offender are brought together face to face, the offender starts to realize that the individual is not just some person who is off somewhere. It's not some old man's house that they ripped off. They come more directly to realize that this is an elderly gentleman who has been put to severe discomfort as a result of the particular crime they have perpetrated.

[12:00]

We don't force the individuals together; we act through mediators and arrange for them to come together and we are finding rather good success. We funded that program and that is operating in conjunction with the Mennonites in Kitchener. Another program is beginning in Windsor and we expect, from the preliminary results, that we will see more of these throughout the province. So in many respects we have much of our ministry focused directly on attempting to prevent crime. We attempt to prevent crime in the form of rehabilitating the individual when we receive that individual.

Mr. Lupusella: Mr. Chairman, if I may reply to the minister, it is my understanding that his ministry is deeply involved in rehabilitation of the offender in order that no more crimes are going to be committed or repeated after the first offence. My particular concern is based on prevention of crime in relation to the Solicitor General's ministry in order that the public as a whole is going to be educated.

I guess your efforts are more related to an individual case—when a person commits a crime the first time, you are dealing with the offender—but my particular concern involves the public as a whole; what kind of program your ministry has in connection with the Solicitor General in order that in these programs you are going to involve the public as a whole in relation to prevention of all crimes in the more broader sense. That's my particular concern.

I understand you are putting your emphasis on the rehabilitation of the individual in order that he won't commit future crimes. My particular concern involves the public as a whole. Do you have any program in conjunction with the Solicitor General involving the public as a whole?

Hon. Mr. Walker: We have our own particular awareness program and there is an awful lot of community involvement. It can mean speaking to service groups alone and it is getting the message across. With respect to the Solicitor General, of course, we serve him on the Justice policy field and we have an interchange of ideas and sharing of problems and concerns and directions. We do not take a specific program that he has and then piggy-back that program. We operate with our own programs. We haven't found the value as yet in having the two programs or whatever programs married together.

But we do work with a lot of community involvement. I'll just ask Mr. Daniels to share with Mr. Lupusella some of the community programs we have that attempt to prevent crime at its first instance, as opposed to attempting to prevent the criminal from returning to the system as a recidivist. Our entire system is geared to preventing recidivism, recognizing that we are not 100 per cent successful, which is to say the least.

Mr. Daniels: Thank you, Mr. Minister. I can take quite a long time to enumerate the number of prevention programs that will divert people from crime or from incarceration, but I will briefly highlight some. Some we have already heard about. The other day the minister spoke about a project, STYNG, which is similar to the Rahway, New Jersey project, and that project is in effect in Belleville through the probation and parole services there, and it is adult probationers who are going through the Millhaven Penitentiary.

There have been two or three groups through it already and I am glad to say a few of them came back to the probation office and said: "Find me a job. I am not going to carry on just hanging around pool halls in the community." That project is a perfect diversion project for probationers who have yet to be incarcerated but have now seen what it is like if they go from probation further into the system.

Mr. Chairman: Is there any thought of extending it, in obviously much modified and less tea-group type of approach, into the high school system?

Mr. Daniels: Exactly. The high schools in Belleville have already expressed an interest in getting involved in the program. The Big Brothers association has taken some of its clients who it feels are going to get into trouble with the law. It is more than just probation; it is community in the sense of the Big Brothers and the high schools. It is a program that I am sure will grow. We are evaluating it as it develops to make sure the results we get are positive; and it is a diversion.

Mrs. Campbell: No Big Sisters?

Mr. Daniels: Not yet.

Mrs. Campbell: Never yet! It's always one-way.

Mr. Daniels: Why not have the Big Sisters take them to the Kingston Prison for Women? That is probably a logical extension.

Other programs that divert the client from incarcerations: The minister mentioned that community service orders will double next year for 14 to 28 project areas. We have a driving-while-impaired program in a number of communities, which is an education program before a person commits a second or third offence as an impaired driver. Alcohol awareness programs are put in place in certain probation offices. We have drug counselling programs.

Probably the most important of all of our programs in probation are the ones dealing with employment—the job-finder and job-readiness programs. All these programs will affect repeating and recidivism. I could name hundreds of projects for job-readiness employment which we fund both privately and within the system.

Those are just a few of the highlights of our programs that divert from incarceration. The bail project will be another one, as we get into this next year, which will effectively divert people from incarceration.

Mrs. Campbell: Could I ask a question, Mr. Chairman? Is the minister not concerned, as the former minister expressed himself, that more women are becoming involved in criminal activity, and more of it, as I understand, of a more serious nature; and yet we always lag in programs for women to get them that kind of service? I wonder why. It seems so perverse somehow.

Hon. Mr. Walker: First of all, let me say that obviously I share—

Mrs. Campbell: Maybe we need a female minister.

Hon. Mr. Walker: We will take you on as a deputy. Would you mind that?

Mrs. Campbell: I am sure that wouldn't be taken seriously, sir.

Hon. Mr. Walker: I am very concerned about the increase in the level of female crime, if I can describe it as that; that is not a perfect description of it.

I suppose we tackle the problems to a large extent on the basis of the elephant-and-mouse relationship. The number of males involved in our system in the year ended March 31, 1978, was 95,279; the number of females was 4,538. The number of females seems very large; but when you measure it against the 95,279, I guess it is just logical to attack the problems initially from a male perspective. That is not to say the problems don't exist from a female point of view; they are there. It's just that you take the largest bunch and work with them first.

We think we are having some great successes with our participation in the Stop The Youth Now Group program, for instance. A logical extension of that, at some point in

time, is to involve female offenders who find themselves in a similar circumstance. Through the process of numbers alone, the Belleville office has plenty of people to send off to the STYNG program who are male, but it may not have one person who is a female, just because of the distribution throughout our system. We have 5,600 people in jail today, and 230 or so are female; so, naturally, we have a greater distribution of males.

Let me assure you it is not because of any disinterest on the part of either this minister or the entire ministry. We have a very strong program with respect to females, not only from the point of view of the persons incarcerated but also from our staffing point of view. At some point, I'm hopeful you will be able to see a small group of slides on our affirmative action program. Mrs. Radley is here today and would be pleased to talk about it, So, at some point this morning, if not at this moment, you might like to tweek us on that.

Mrs. Campbell: From the experience I have had, which has been with children and not adults, it seems to me the female is very often, in so many ways, far more damaged than the male, by reason of the types of offence. It is not that I don't want to see the men have the program, too. But I just feel the thrust is often not there—the impetus isn't there—when it comes to females.

Mr. Chairman: In developing your various preventive programs, are you taking into account or doing research on the need for possible different approaches in different ethnic communities? STYNG may be particularly useful for the traditional Anglo-Saxon community but a different kind of program may be needed for say, West Indians new to the country, or for other groups with different cultural backgrounds and values?

Mr. Daniels: The native program is an example of a more unique way of dealing with it. We are funding general community service workers, not somebody just dealing with those in conflict with the law. But at Pikangikum, for instance, whoever works with the family in parent effectiveness training and alcohol and drug abuse just covers the whole prevention area. They don't just isolate the parolee and the probationer, but cover the whole family unit in the remote northwest.

A number of our probation officers deal with problems on a group basis, as opposed to individual, one-on-one counselling. A number of our probation officers are of different ethnic backgrounds and would carry a caseload of people from that ethnic group.

Hon. Mr. Walker: And volunteers.

Mr. Daniels: And volunteers. That is right, Mr. Minister.

Hon. Mr. Walker: A lot of our volunteers have ethnic backgrounds. We have 3,200 volunteers in the province working in corrections. We try to direct many of them towards people of the same ethnic background. That has proved fairly successful.

Mr. Chairman: Suppose an MPP receives a request like the one I had the other day from some people in the West Indian community? They were concerned about teenagers fairly new to the country, but those parents immigrated here many years ago, perhaps. Now, they suddenly find themselves not only in a new country and in a new school system, but also with mothers they haven't seen, except on occasional vacations back home years ago.

The question is, what kind of financial assistance or other assistance can be offered by the government to work with kids who feel alienated not only from their families, because they were more accustomed to grandparents back home than their new mothers, but also from a new society, a new set of values and a new way of doing things. Is there any program in the ministry, or any assistance from this ministry, to meet that kind of problem?

Mr. Daniels: We have full-time West Indian probation officers. I would think they would each pick up a caseload of young West Indian offenders. I can't talk about what kinds of programs they would develop, but they try to personalize a lot of their caseloads as much as possible. You are talking on a more global basis, I think, about a prevention program and that would take a co-ordinated effort.

[12:15]

Mr. Chairman: For example, I have a group of people and their centre of focus is a few people who are involved as Muslims, but they are trying to work with the Christian black community as well. They are doing quite an effective job, but when they turn to some of the traditional Anglo-Saxon groups that are working in the community with kids who are having problems, they don't seem to get the kind of support that says perhaps different approaches are needed with this group. They just don't know where to turn for help.

Would the probation officers be able to offer some help with those kids who haven't yet made it into the court system but who have other kinds of problems, and in fact

may be engaged in petty vandalism and that kind of thing in the community?

Mr. Daniels: There is an organization named BRIC, by the way, that deals with the black offender. They visit our institutions as volunteers and are volunteer probation officers. So there is something in the community, a community organization like that. But I would see that our probation officers have a mandate to be involved as much as possible in the community. I wouldn't see that being anything outside of their role of getting involved in prevention.

Mr. Chairman: We are on vote 1601, item 1. Any further comments or questions on that item?

Mrs. Campbell: Mr. Chairman, I didn't quite catch what he said, but I understand the minister is speaking about Elizabeth Fry and John Howard and others, that there was a review of the legislation with reference to their mandate. There was some reference, and I wasn't clear about what the answer was.

Hon. Mr. Walker: Section 9 of the Ministry of Correctional Services Act caused some problems, and the private agencies have expressed alarm with it. We have entertained discussions over the last five months on the matter, and just a week or so ago I was able to report to them that we would rewrite that section to better reflect what we had intended and what they legitimately complain about. They have a certain view with regard to volunteers, of independence. We have a certain view with regard to volunteers, not so much with their independence as with their protection and security within our system. As we want to accomplish both ends, we have agreed that our legal department will spend quite a bit of time with the various agencies in rewriting the section with a view that at some point there may be an amendment if the act is brought into the House.

Pending that, we intend to pass on to our superintendents the view that as we are now rewriting the section we feel this following interpretation should be given to it.

Mr. Ziemba: In last year's estimates we raised the question of rationalizing the custodial system. I wonder whether the main office has considered that. My concern is that many people see jail, and they don't differentiate between the jails in the police stations and the jails that are operated by the corrections ministry. There are more problems in the police cells than there are in your ministry.

I can think of the Manitoulin Island incident when Judge Hogg found that there were 20 native people locked in one little cell, and in the morning one of them had a broken jaw. We asked your predecessor about it, and his answer was kind of vague.

I wonder whether you have thought about it since—whether we could rationalize the whole custodial system so that the police would bring the accused to you and take him from you, instead of the present system with all of its overlapping jurisdictions that lead to problems, not only with the incarceration but also with the transportation. There have been problems with packed paddy wagons, and things like that.

Hon. Mr. Walker: Do you mean that we would eliminate the local lockup and we would become, in fact, the local lockup? We have not spent a great deal of time looking into that question. It's a rather difficult one to consider. It would mean quite an enlargement of our system because I suspect it would be difficult for us to go in and operate a police lockup as sort of an outpost of Correctional Services. On the other hand, it would probably require the installation of—well, I suppose there are 900 communities in Ontario, almost all of them would have some form of lockup. It would mean we would either have to install our own lockup in that community, and that's quite a considerable capital consideration—

Mr. Ziemba: No, no, operate their own.

Hon. Mr. Walker: —or operate their own, or have them brought to our existing 52 institutions throughout Ontario.

Mr. Ziemba: I'm saying that if you could operate lockups in the police stations, because you have expertise in that matter that the police do not have I think that a lot of the deaths that occur in police lockups wouldn't occur because of the competence of correctional officers who know how to run lockups.

Hon. Mr. Walker: I certainly recognize the point that you're making in the sense that it compliments our system when it's measured against the police lockup system. All I can say at the moment is that we have now about 20 of our institutions which act as the local lockup for which service the community is required to pay us a fee. We have not broadened our scope beyond that, I must say, at least not during the period of time that I've been minister, and this is the first question that has really dealt with it.

We know, of course, that the transfer of inmates between police lockups and our own institutions and of course to the courts, is presently under study in the Puckatz report, which eventually will be displayed, I suspect. But I must tell you that we have not gone

beyond that, as a ministry at least, so far as I've been involved.

Mr. Ziemba: Could you give us a commitment that you will approach the Solicitor General (Mr. McMurtry) in this regard?

Hon. Mr. Walker: Before I speak to the question of the commitment, I would say that we do offer a fair amount of advice and direct service to the local police forces in the operation of their lockups, through direct advice and through our inspection branch going into individual police lockups, so there is some contribution of assistance there.

Mr. Ziemba: Sometimes the advice comes too late. Mr. Drea sent someone up to Manitoulin Island to deal with that situation and he was able to alleviate it somewhat. But certainly people who are in charge of corrections should be in charge of prisons, no matter where they are.

Hon. Mr. Walker: Let me extend you this degree of commitment. I will undertake to raise the whole issue of lockups in the justice policy field, particularly with the Solicitor General, and we will discuss and vet that quite thoroughly.

Mr. Chairman: Further questions?

Hon. Mr. Walker: Before you move the vote, Mr. Chairman, just to clear up one point, Mrs. Campbell, that was raised: Mr. Ian Starkie is the superintendent of the Toronto Jail and he has indicated to us that there are no staff currently under suspension at the Toronto Jail, and he cannot recall any in relatively recent time.

Mrs. Campbell: That is interesting. I couldn't track it down, but it was on the occasion of my visit there that one of the security officers asked me if I could do something about it. That was in January and I have been trying to track it down since. He's difficult to get in touch with. I don't understand that.

Hon. Mr. Walker: Allow us to track it down. It may be one of the other Toronto institutions.

Mrs. Campbell: No, he was speaking of the Toronto Jail, as I understood it. It was quite a quick thing and he was just pleading with me to see if we couldn't get these suspensions dealt with because they were hanging in limbo for so long. I wouldn't think it was someone who was under suspension because there would be some kind of time frame indicated in the suspension if that were the case.

Hon. Mr. Walker: I have a feeling that, if anything, it relates to the Shapiro commission. Those are still outstanding, as we discussed earlier, but there is no one else beyond Shapiro who falls into that category according to Mr. Starkie who I telephoned just a moment ago.

Mrs. Campbell: Thank you very much. I am just a little concerned about the answer.

Item 1 agreed to.

Items 2 to 7, inclusive agreed to.

Vote 1601 agreed to.

Mr. Chairman: Fine, we just spent $6,000,000.

On vote 1602, institutional program:

Mr. Chairman: Would the minister care to make any opening remarks on this vote?

Hon. Mr. Walker: Mr. Chairman, I would like to have the members share in a presentation which takes about 10 or 15 minutes. I'm mindful of time, of course, but it involves the jail corridor search. It is directly connected with training. It's a training film we have in the ministry. If the members would like to see this, and I see Mrs. Campbell nodding her head, I would be delighted to present it.

Mr. Ziemba: There is just one thing I raised in my opening statement we didn't get an answer to and that is the business of the emotionally disturbed, low-functioning inmates and the way they're treated in the system. I would like to get an answer to that, Mr. Minister. Perhaps you can give us a nutshell answer. If you're doing anything about it or of you've even thought about it, great but I would like an answer about protective custody and all the problems that arise from it.

Hon. Mr. Walker: Dr. Hutchison, were you able to capture the essence of that question?

Dr. Hutchison: Yes, I think so. It's a fairly complex question. I wonder if you'd like to break it down, Mr. Ziemba?

Mr. Ziemba: In every corridor there is usually one, two, three and sometimes even more emotionally disturbed inmates. They are picked on by the other inmates, harassed and from time to time are removed from the general population and put in protective custody. Even there they are often harassed. There seems to be nowhere in your system where you have one central lockup for them.

Dr. Hutchison: We do have, Mr. Ziemba. You're referring now to the jail population as distinct from correctional centre populations. It is a sad commentary, I guess, on the inmate subculture that even when you

segregate some of these inadequate people, a certain leadership emerges among that group itself and the victim becomes the individual who preys on the other. In terms of differentiating between these groups, certainly, the emotionally disturbed you've described is one category. There is also the mentally retarded.

Mr. Ziemba: Low functioning; not mentally retarded, but low functioning.

Dr. Hutchison: Yes, which we would describe as probably inadequate; the former minister used the term, "not too swift."

Mr. Ziemba: Yes, I remember that.

Mrs. Campbell: It sounds like the former minister.

[12:30]

Dr. Hutchison: There are the mentally retarded and another group and so on. Our present minister, by the way, likes to keep things short and to the point and I'll try to do that in describing what was a very complex and long study carried out last year by a group of professional and administrative people.

What we did was to come up with a program which would turn the system around with regard to the initial assessment of individuals and the internal placement of them and planning for their discharge. The whole concept would encompass very much what was said in the Elizabeth Fry submission to this committee on discharge planning. I think the best thing we could do is make copies of that report available to you, ladies and gentlemen. You might like to peruse it at your leisure.

We are very much concerned about the issue of segregating people on first intake. In terms of your previous comment regarding the takeover of lockups—you commented favourably, I think, on the low incidence of suicide in our system and that's attributable to the fact that we already have a fairly good classification system. We can improve on it, but we have a pretty good one now. That is probably the feature that sets it off from the lockup situation. We have medical staff to conduct these assessments and classification personnel to interview people and find out what their backgrounds are and so on.

So, yes, Mr. Ziemba, we are concerned about that and we are certainly working on it.

Mr. Ziemba: On that last point, you mentioned that you have a classification and assessment program, but you really don't have much by way of discharge planning. I can recall the case of young Paul Reid, a chap who was emotionally disturbed and released from Brampton, who ended up taking a hostage in downtown Toronto and getting shot. There was a problem there and I think someone knew about it, yet still let him go out into the community and commit that crime.

Dr. Hutchison: I remember reading about that incident. It has been pointed out to me that he escaped from custody, but I understand what you are saying.

Let me tell you what we've done about the concept of discharge planning. As a result of the creation of two operational divisions within the ministry, the community programs and the institutional programs, we have been anxious to bridge the gap between them. We are concerned that people come into the system, do their time in jail, whether it's long or short—mostly short—go out for one reason or another, whether on completion of sentence, parole or whatever, and there is no adequate community reintegration and followup. On the other side of the picture, people come into the probation service—more and more, by the way, probation is following a sentence of imprisonment—as a sentence of the court without any imprisonment and they are dealt with separately on that basis. What we're trying to do is bring both together administratively, cross-fertilizing, taking people from one division and putting them into the other and so on for training purposes. We are trying to integrate the administration, but particularly the services themselves.

One of the things we have done is create a new position. There's no magic about creating new positions. The position, by the way, draws on existing positions so there is no new staff involved. What we're trying to do with this position is to give someone the responsibility at each institution—these are senior social worker positions—for bringing together all the information about that individual, medical, correctional, previous history and so on. It's being done as a first-time program right now in the Millhaven-Peterborough-Lindsay jail areas, and it seems to be working well. We'll have the whole show on the road, I would think, by the end of the year. This social worker will also be responsible for preparing a discharge plan for this individual.

In terms of job-finding, we already have excellent relationships with Employment Canada, but we're working on those as well. The issue arises as to whether we should have special placement services for correc-

tional clients, and we're willing to talk about that, and we will be talking to them about that. We have good links with the Ontario Association for the Mentally Retarded in terms of those people we identify as being in the lower intelligence ranges. We have referral relationships for whatever special needs they might have.

Another area we are working on is that of learning disabilities in terms of these subgroups and so on, and I think we are developing those community linkages and can look forward to some progress in that area.

Mrs. Campbell: As a result of some of the statements made I have a question. You have people looking into the background of people in this category. I had a case which I brought to the attention basically, in the first instance, of the Attorney General, because it was a case where, according to the defence counsel, a judge had ordered psychiatric treatment. This was not followed at all in the system and my information, in speaking with one of the psychiatrists who goes to one of the institutions on an alternating basis, was that it really is the correctional officer who determines who that doctor is going to see.

In this case no psychiatric treatment was given to this young man, who in my view had demonstrated by his actions that he was suicidal, in that the offences were basically car theft and then driving a car at terrific speeds, with no kind of reason to his actions. Nevertheless nothing was done, nobody investigated the trauma of that boy's life and he was released and took an aircraft and crashed it.

Dr. Hutchison: Oh, I think I know the case. You are talking about the—

Mrs. Campbell: I am not talking by names about cases, I am just saying that this happened. In the investigation it was clear, as far as I could take it, that the order had been made and if there had been, as you suggest, an investigation of his circumstances, it seems to me something could have been done to prevent that.

It was another case of a mother trying all the steps through the juvenile system, through the adult system, to get help and she failed because, according to the evidence that I had, and it wasn't conclusive, a correctional officer didn't think he was the type of person who needed the attention of a psychiatrist. Who makes that decision?

Dr. Hutchison: Mrs. Campbell, from what you are saying I gather that you came by this information through the word of a relative, so it wasn't your direct experience, but presumably something that was told to you.

Mrs. Campbell: It was not just a relative. I spoke to defence counsel, I spoke to one of the doctors who customarily went to that institution and that was his information to me, so I don't think you could dismiss it as the word of a mother.

Dr. Hutchison: No, no, I wasn't saying that.

Mrs. Campbell: Or a relative.

Dr. Hutchison: I wasn't suggesting that. One of the cases you mentioned, if it is the lad who crashed a helicopter, of course, it was the subject of a coroner's inquest.

Mrs. Campbell: Yes, it was a helicopter, not an airplane.

Dr. Hutchison: It was the subject of a coroner's inquest and evidence was presented, there is a transcript of the evidence, and there were recommendations by the coroner's jury which we dealt with and did our level best to expedite.

One of those in particular I recall was a problematic one to do, and you will appreciate this is a former juvenile court or family court judge. The jury's recommendation was that material relating to psychiatric conditions from the juvenile field be passed on to the adult court.

Mrs. Campbell: That's one of the places where I am in disagreement with the system, I think, if accepting information that can be helpful to the person, perhaps there is a good reason to breach to some degree the anonymity of the family court, particularly with reference to psychiatric experiences or problems.

Dr. Hutchison: Absolutely.

Mrs. Campbell: I have problems with that and always have had.

Hon. Mr. Walker: The Paul Reid case was one of those where a transfer of files perhaps would have made a difference in what happened.

Mrs. Campbell: I wish we could take a look at it. I really want to protect the juvenile, but I think sometimes in protecting him we destroy him.

Hon. Mr. Walker: We are very advanced on that. I have committed myself to that direction; not only that, the ministry has made submissions to the Krever commission in the strongest of terms recommending that, and we are hopeful that Mr. Justice Krever will address his report to that in some detail.

Mrs. Campbell: But who advises the psychiatrist as to the cases that he or she should see?

Dr. Hutchison: If I may respond to Mrs. Campbell's question: First of all, if a judge

orders psychiatric treatment, that is stamped on the committal warrant.

Mrs. Campbell: In this case there was some flaw in the order. I have to tell you that.

Dr. Hutchison: You mean the information, Mrs. Campbell, did not get to the jail? Is that the problem?

Mrs. Campbell: No, I think it did get to the jail all right, but there was some dispute as to whether it was in the correct form, according to the defence counsel.

Dr. Hutchison: With all respect, that wouldn't be an issue. All the judge has to do is say that this person should be psychiatrically examined. He doesn't have to go that far.

Mrs. Campbell: It wasn't an examination that was ordered; it was treatment.

Dr. Hutchison: Or treatment. He doesn't have to go that far. He just has to mention the word "psychiatry;" that will be communicated on the warrant by the clerk in the court. It will be picked up immediately by the clerk of records who accepts those documents from the person who delivers the body from the court to the jail, and then it will immediately evoke a referral of this individual to the medical section. If it is a jail that is too small to have a psychiatrist, somebody will be brought up.

It is absolute ministry policy that anyone who is thought to have any kind of psychiatric disability is given an examination. We certainly have the resources to do that, Mrs. Campbell. Every jail in southwestern Ontario, even the smaller ones, has a consulting psychiatrist. There is no reason not to provide that.

Mrs. Campbell: I think this was the Toronto Jail.

Dr. Hutchison: At Toronto Jail? We have a psychiatrist—

Mrs. Campbell: I know you do; and I spoke with one of them who was accustomed to go in there—not the one who was regularly there.

Hon. Mr. Walker: In the helicopter case the boy was seen by the psychiatrist, I understand. But I would like to share with you the file on the matter. I would be glad to have you—

Mrs. Campbell: It is just the system has gaps that I think we have to close.

Hon. Mr. Walker: I'd like to have you take a look at the file, if I may.

Mrs. Campbell: I should like to see it.

Hon. Mr. Walker: We'll get that—

Mrs. Campbell: I really never could put it all together.

Hon. Mr. Walker: Dr. Hutchison, rather than continue on the matter I wonder if you could make arrangements for Mrs. Campbell to see this file—I think you are aware of the name—and show that to her; I think that would be helpful.

Dr. Hutchison: Could I comment in regard to the correctional officer? Yes, it is true the correctional officer can refer someone for a psychiatric examination. We encourage that sort of thing, Mrs. Campbell.

Mrs. Campbell: Sometimes I wonder if they are the best persons to make the decisions because, when he refers one, it limits the doctor's time for someone else might need it even more. That is the problem I see.

Hon. Mr. Walker: We just have time to show you that, if I may. Let me just begin by saying that when I made the opening statement I referred to the increasingly difficult job faced by our correctional staff.

I pointed out that the major thrust in community programs has left the institutional staff with problem inmates—the violent, the assaultive, the career criminals. This means there is more pressure, stress and danger for correctional officers. They must be constantly on the alert for contraband such as drugs and weapons and such tools of escape as hacksaw blades and the like.

[12:45]

I am stressing this because I think that in the enthusiasm for community programs for non-violent and/or petty offenders, people sometimes lose sight of the fact that our maximum security institutions, particularly our jails and our detention centres, always contain a number of very dangerous offenders. Among these are armed robbers, rapists and murderers who eventually are sent to federal penitentiaries to serve long terms of up to and including life sentences.

To prepare our staff to work in these institutions, the ministry has developed a number of staff training films which are of such high quality that many of them have been purchased by the federal penitentiary service for use in the training of their own correctional officers. I believe a viewing of one of these slide programs would increase committee members' appreciation of the dangers and challenges that staff face daily and would also provide an insight into the kind and calibre of staff training which our ministry provides. This particular presentation deals with searches of jail corridors and it's done daily in our jails.

The committee watched an audio-visual presentation.

Hon. Mr. Walker: We inherited 37 old institutions in 1968 and not all of them have been replaced. About 19 now have been replaced so we still have some 20-odd older institutions that make it very difficult to avoid the kind of contraband you have seen here in this display.

Mr. Chairman: Any questions?

Hon. Mr. Walker: It is a very serious business as you can see. It is one that causes us a great deal of concern. In fact, in our Ontario corrections ministry we basically have a modest number of injuries each year, and, because of procedures like this, we have been able to avoid many more.

Mr. Chairman: Are the items found mainly drugs or is it a frequent occurrence to find weapons—weapons being a ballpoint pen or anything that can be used for stabbing?

Mr. Duggan: Sorry, Mr. Chairman, did you say is it a frequent occurrence?

Hon. Mr. Walker: What do you find most often?

Mr. Chairman: What do you find most often, drugs or weapons?

Mr. Duggan: We mostly find manufactured articles as you saw there. For example, that little toothbrush handle was like a spike. It was described as a stabbing implement. In fact, that's probably a tattoo needle. Sometimes it is quite popular to tattoo something like "love and hate," or "I am with the devil," or whatever it may be. They will get a bottle of ink and fabricate something like that and it just becomes sort of a trade mark of being in an institution. It is generally manufactured items like that, knives or tattoo articles.

Mr. Ziemba: There are a lot of things you can't prevent even with your searches, because the fire in Stratford Jail was started, I understand, by inmates gathering up hundreds of match heads and rolling them tightly into a ball with cigarette paper tinfoil and throwing it. It exploded on impact. I may be wrong, but I understand that's how that fire was started. Fires are regularly started in that way, and there's no way the inmate will be blamed for it because a fire will be away down there and he's here.

In a lot of these old institutions, there are real problems. In the Sault jail for instance, the paint is old and there are all kinds of fumes that come up from the pipes that would lead to toxic conditions if a fire were to start.

Hon. Mr. Walker: We have problems, of course, with people coming in and out of the institutions and some visitors. Some people go out on some form of temporary absence. It is not uncommon. I guess it is fairly common to consume things like drugs in quantities wrapped in tinfoil or whatever, and these are ultimately digested through the body and it's impossible to detect that kind of thing. That's certainly one of the problems.

Mr. Duggan: May I just respond, Mr. Chairman, to the question of the Stratford fire? In fact, Mr. Ziemba, you are half correct. The fire was started with a pile of paper. The fire marshal's office did many tests, about 10 hours of testing, and in fact, they concluded at the end of their tests the fire had been started by a ball of paper that was thrown, alight, on to another pile of paper in a corner. That was their conjecture. We didn't think it was matchheads, though.

Mr. Chairman: Any further questions? Next Wednesday, we are likely to have a trip and the clerk will be in touch with members of the committee to find out who is going and to give you more details. Can we have some indication from each of the caucuses of how many are expected?

Mr. Ziemba: I am going, Mr. Chairman.

Mrs. Campbell: I expect to be going. I have general government that day.

Mr. Chairman: Do you know if anyone else from your party is going?

Mrs. Campbell: I think Mr. Bradley was going. The other day he indicated he couldn't go today but would be going Wednesday.

Mr. Chairman: Mr. Williams, are you going?

Mr. Williams: No.

Mr. Chairman: Do you know if there are members of your caucus who are going?

Mr. Williams: I am not aware of that at the moment. I will have to check.

Mr. Chairman: Fine.

Mr. Ziemba: There will be a handful of people.

[1:00]

Hon. Mr. Walker: Let's get some number. We are taking down probably a good-sized handful as well. Mr. Duggan, Mr. Thompson and Mr. Kerr will be going down. We thought it would be useful to have people available for questions you might wish to pose on the bus, as well. It doesn't quite fit into the estimates examination, but I think it would be a useful opportunity to pose questions.

Mr. Chairman: Unless my own estimates are not commenced on Wednesday, I am

afraid that I won't be going, as much as I would enjoy going with you.

We adjourn until Wednesday.

Mr. Ziemba: Are members of the public allowed?

Hon. Mr. Walker: I think we will keep it to the committee. I think it would be more appropriate. We can arrange at future times for the public to tour facilities. One of our big concerns is the whole question of having a large crowd going through. We are going to try and keep it modest. It is a trip for the benefit of the committee.

Mr. Chairman: I believe that by members of the public Mr. Ziemba was probably referring to somebody such as his wife or his parliamentary assistant.

Mr. Ziemba: No.

Mr. Chairman: You weren't?

Mr. Ziemba: No, I was thinking of—I think these are ministry people, though—teachers in corrections who have asked me if they could attend. If they are working for the ministry—

Hon. Mr. Walker: I think we are going to see them at Guelph anyway, aren't we?

Mr. Ziemba: I don't know. They asked me if they could go up with us.

Hon. Mr. Walker: I think they will be there at the institution.

Mr. Chairman: We adjourn until Wednesday morning.

Hon. Mr. Walker: I expect that we will meet on Wednesday of course, and then will conclude the estimates, I take it, on Thursday. That is the day before Good Friday, so we wouldn't normally meet obviously on the Friday.

Mr. Chairman: That is my expectation.

The committee adjourned at 1:02 p.m.

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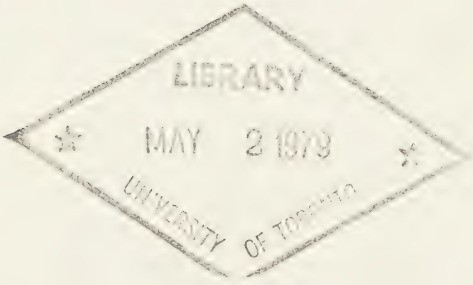
Ontario

No. J-4

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of Correctional Services



Third Session, 31st Parliament
Thursday, April 12, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 3:55 p.m.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES
(concluded)

Mr. Chairman: I'll recognize a quorum. We have one hour and forty-four minutes left in these estimates.

Hon. Mr. Walker: Mr. Chairman, while the members of the committee are collecting their notes, it might be an opportune moment for me to mention to you that we have coming up later the Ontario Board of Parole, and there is a comment that I would like to make about the chairman of the parole board, who is at the back of the room over here to answer some questions. If I just might read a statement that might be appropriate at this moment and then lead into the questions.

Dan Coughlan, are you there?

Mr. Coughlan: I am, sir.

Hon. Mr. Walker: Would you mind just coming forward? This is the only moment, Mr. Chairman, when Mr. Coughlan can be with us and I just wanted to make a comment in view of his pending retirement, because all of the members of the committee will be very acquainted with the work Mr. Coughlan has done over the years.

Mr. Chairman: He looks a lot younger than most members of the committee.

Hon. Mr. Walker: Yes, he has fared well.

Mr. Coughlan: Lack of conscience.

Mr. Chairman: I won't touch that one.

Hon. Mr. Walker: Corrections in the province of Ontario has consistently demonstrated future directions to other jurisdictions in North America because it has been served by men and women of vision, devotion and energy. I would like to disgress for a moment and pay tribute to one of these people, Dan Coughlan, chairman of the Ontario Board of Parole. Mr. Coughlan will retire shortly.

In 1950, another man of vision, the late Hon. Dana Porter, QC, at that time the Minister of Education and Attorney General, undertook an inquiry into some aspects of juvenile delinquency. The probation branch was built on the recommendations in this report. For director of probation, the Hon. Dana Porter sought a man totally committed to probation, who had the zeal of a priest, which he is and was, the courage of a naval officer, which he was, and probably still is, the ruggedness of a boxer, which I am sure he still is, and perhaps along with eloquence of speech, which he still has, a little bit of Irish blarney. His obvious choice was Dan Coughlan. He was appointed the first director of probation services in Ontario in January of 1952.

[4:00]

If some day the fascinating story about the beginning and development of probation in Ontario is the subject of a book, it will be in many ways the story of Dan Coughlan. In 20 years under his directorship the probation services developed from infancy—from a mere 14 officers to about 300—and by 1972 was serving annually over 20,000 probationers. This alone was an incredible administrative accomplishment, but during the same period Dan Coughlan made a countless number of public appearances – 6,000 he estimates—in every part of the province, selling probation to the public and the judiciary. It was sold as, and has clearly provided, an alternative to imprisonment.

In 1972, with the transfer of the probation service to the Ministry of Correctional Services, Mr. Coughlan was appointed chairman of the Ontario Board of Parole. To this position and to the great benefit of inmates and staff in Ontario, he brought his vast knowledge and experience. Since last summer Mr. Coughlan has led the board through a major expansion as we assumed responsibility for the parole consideration of our inmate population.

The board is now seeing approximately 7,000 persons each year where their caseload up to last July had been approximately 1,000. In September of this year Mr. Coughlan will retire from the board. This is a tribute to the man and his achievements, a sincere thanks for his many years of contribution and a wish for continued success and happiness. We are very indebted to Mr. Coughlan's services throughout this province and particularly to this ministry. I wanted to draw that to your attention, Mr. Chairman.

Mr. Coughlan: Thank you, sir.

Mr. Chairman: I am sure that all members of the committee wish you well and we hope that you stay out of trouble.

Mr. Coughlan: We'll try, thank you.

Mr. Bradley: Mr. Chairman, I would very briefly join with the minister in paying a very strong compliment to Mr. Dan Coughlan for the service that he has rendered in the province of Ontario. Public servants often do not receive the kind of recognition that they should, particularly because there are a number of people in the broad cross section of the province of Ontario who are not aware of the kind of job that they are doing. So it is up to those of us who are somewhat closer to the scene, the minister in this particular case, and I am sure the members of his staff, members of this committee, to pay a compliment and give a very strong vote of thanks to an individual who has dedicated that much time to an area we feel is very important.

Mr. Ziemba: Mr. Chairman, I think it is appropriate for this committee to give a vote of thanks and pay tribute to Mr. Dan Coughlan for many years of outstanding work. The only thing that comes to my mind is that we are always recognizing people when they are retiring or after they have died. Even though you are retiring, Mr. Coughlan, I think you are going to be around as an adviser for many years to come and you will be with us for many more years. I would like to add my voice to the minister's and to Mr. Bradley's in commending you for your many years of outstanding service.

Mr. Coughlan: Thank you.

On vote 1602, institutional program; item 1, program administration.

Mr. Bradley: This item mentions that the inmate inquiry and appeals branch is responsible for monitoring and appropriate action on complaints, reviews and appeals involving the temporary absence program. I would be interested to know from the minister and his officials if, in any cases or in many cases, inmates who are involved in the temporary absence program feel that because of the unique circumstances they are in they are being taken advantage of by employers; in other words, in normal circumstances an individual has a union and perhaps does not feel so threatened by an employer in terms of the kind of work that is turned out to the working conditions under which he is prepared to labour. I am wondering if the fact that a person is out on a temporary absence program has led to many examples of employers taking advantage of this in an unfair manner.

Hon. Mr. Walker: I'm not aware of any myself and I would have to think that it doesn't occur. I suppose there could be rare exceptions where it could occur, but I would tend to think that's not the case. I'm wondering if Mr. Thompson, the deputy minister, might offer comment. He has an intimate knowledge here.

Mr. Thompson: I was involved directly with the temporary absence program when it started in 1969. I think over all of those years we've seen cases where people appeared likely to be going to be disadvantaged in employment situations, and I guess that's what has led us to set up a process that has the employer sign an agreement when the person goes for employment in the first instance, and the probation and parole staff or others in the community do that kind of clearing. So perhaps in that way we've avoided those situations before they began in many instances. I can't imagine in all those thousands of temporary absence programs there hasn't been somebody who's been taken advantage of, but I must say with the existence now of both our own inquiry and appeals branch and the Ombudsman's branch I think people have a good access to raise concerns of that sort and there have been none to my knowledge that have been raised with Mr. McFarlane's area. Although I could be in error about that, I don't think so.

Hon. Mr. Walker: I think it's appropriate to repeat some earlier comments that this is the tenth anniversary year of the temporary absence program and to date 82,000 people have passed through the temporary absence program with a 98 per cent success completion rate. We think that is very impressive. We're really quite thrilled with the whole program. It's accomplished everything and more so than what the ministry had originally envisaged.

Mr. Bradley: If you had a circumstance where an individual was convicted of a particular crime and then through the usage of the temporary absence program was able to continue his regular employment, you would be looking at one situation. A second situation I'd like to look at is the one where employers, particularly on a relatively short-term basis, are looking for people from institutions to come out on a temporary absence program to take part in work, and what I'm interested in there is what kind of success these individuals have in terms of retaining

employment with that particular company after being released from custody. Are there any statistics or any ballpark figures or projections on that?

Mr. Duggan: I don't have any particular figures, Mr. Bradley, but the impression I have is that many people do retain the work that they have—particularly, for example, where someone is returning to his home town area to take up employment, and I would say in 90 per cent of those cases that continues when he leaves us. The employment doesn't cease. The only cases where it would cease is if he has employment in an area perhaps which is not near his domicile, the area he returns to. For example, at the Guelph abattoir we have many people working on a temporary absence program, as you perhaps saw yesterday, and in fact that is not their home area so they would go back to their home area and take up fresh employment. But my impression is that most people who return to their area of normal living do continue the employment they have on temporary absence.

Hon. Mr. Walker: In fact one of the people at the Guelph abattoir in a supervisory role received his training under the temporary absence program as an inmate of the Guelph Correctional Centre.

Mr. Bradley: I see that as being yet another program that has been in effect for a long time and it certainly doesn't need any boost. It has spoken for itself, but I see that as a distinct advantage, the fact that having gained that experience, first of all, and whatever skills might be gained in that short period of time, but having gained that connection those who were inmates later have the opportunity to continue in that job having performed in a satisfactory manner, the employer can be suitably impressed and perhaps encouraged to keep the person, no doubt with encouragement from both the ministry and volunteer services as well, which would assist him in that regard.

Hon. Mr. Walker: One of the interesting approaches we've taken is with respect to Sherbourne House here in Toronto, which operates with respect to Mimico. If an inmate of Mimico makes application for temporary absence through the program of entering a CRC, even though he may not have a job in some cases we have accepted individuals for temporary absence on the understanding they have five days to get a job. Rather interestingly, all have got a job in that period of time and have not had to return to Mimico directly; many have continued in the same employment following their release from incarceration at the CRC.

Hon. Mr. Chairman: Shall item 1 carry?

Item 1 agreed to.

On item 2, care, treatment and training:

Mr. Ziemba: On the question of education in correctional centres, Mr. Chairman, I have passed around to committee members a brief.

Hon. Mr. Walker: I think we are one vote away. I may be incorrect on this, but I think that falls within item 3. It depends, Mr. Chairman.

Mr. Chairman: I think there's an overlapping; I'll accept the questions under this vote.

Hon. Mr. Walker: I'm not contesting it; I'm just wondering which way you're going to pursue the vote allocation.

Mr. Ziemba: I don't see anything under item 3, Mr. Chairman, that has to do with teachers. It does mention librarians. The closest I can come to dealing with teachers is under item 2.

Hon. Mr. Walker: My advice from my staff is it's quite appropriate to go under either item 2 or 3.

Mr. Ziemba: I've passed around to committee members a brief that was prepared by the Federation of Provincial Schools Authority Teachers. We have with us Mr. John Wessenger who is an executive coordinator with this federation, as well as Mr. Doug Foley who is a teacher at Maplehurst. With the committee's permission, if the committee members have any questions about this brief, I would ask that Mr. Foley and Mr. Wessenger be given the opportunity to answer those questions.

Mr. Chairman: Did you say both gentlemen were in the audience?

Mr. Ziemba: Yes.

Mr. Chairman: Would both of them come forward beside the microphone?

Mr. Ziemba: Sure.

Mr. Chairman: Could they identify themselves for the members of the committee?

Mr. Wessenger: John Wessenger.

Mr. Chairman: Who is the gentleman at this microphone?

Hon. Mr. Walker: This is Mr. Tilden, who is in charge of this area.

Mr. Ziemba: The committee members who toured Maplehurst and Guelph yesterday were struck with the number of teenagers who are behind bars and in fact the minister indicated the average age is 19. It seems to me education has to play a vital role if any rehabilitation is to take place.

In fact this brief, on the page titled "C," indicates the recividism rate is less than half in adult training centres compared to the provincial average. I'd like to read into the record, Mr. Chairman, the ATC report, Table 13, An Examination of Adult Training Centres in Ontario, prepared by the ministry in October of 1978, which indicates the provincial average is 68.8 per cent. Correctional Update—this is the ministry's house organ — volume 5, number 2, says first offenders, 48.8 per cent. Correctional centres, Maplehurst—that is the side of Maplehurst we didn't visit where there are no education programs — was 54.9 per cent; and the adult training centre, the study school we did visit, was 22 per cent. That's a startling statistic, Mr. Chairman, and it really makes the case for education in our correctional institutions.

[4:15]

"B" is an article—and I'm afraid I can't tell the committee where it's from, but it's entitled How Smart Are Criminals? If you turn to the last page of "B," I'll read the summary:

"It may be that the prevailing pessimistic beliefs regarding inmate potential will be verified by the study; we may find that criminals are individuals who simply have been unable to learn the basic skills necessary to cope in society. On the other hand, if they really are people of normal intelligence, then as Doug Griffin observes . . . the challenge for the correctional educator becomes that of helping criminals learn to change the ways they have chosen for themselves in the past'."

I'll leave that with committee members to read when they get a chance. I'll just talk about one or two other points in the brief which I think are important, and I'll ask the two representatives to comment on things that I might have missed.

Mr. Chairman: Mr. Ziemba, as a matter of procedure: It's unusual in estimates to bring in a delegation; procedurally, therefore, I think the easiest way would be if the minister could simply say that he had invited these two gentlemen, since they are public employees, and that would solve that procedural problem. Unless he does that, we have to go through the system of asking the committee to invite them. I'm sure the minister will invite his—

Hon. Mr. Walker: I'm not sure what's being requested. As I understand it, Mr. Ziemba is reading to us some comments from the brief, and he's now circulated a copy of the brief to everybody—

Mr. Chairman: He has now asked, though, for an explanation from Mr. Wessenger and—

Hon. Mr. Walker: Oh, I didn't realize you were asking Mr. Wessenger—

Mr. Ziemba: Not at this point, Mr. Chairman. I'm just making some comments; but, if the committee members have any questions, Mr. Wessenger is in a better position to answer them than I am.

Hon. Mr. Walker: Certainly if we get to the point where questions of the two gentlemen are necessary, I'm prepared to acquiesce in the suggestion of the chairman.

We have the benefit of the brief, and I have to tell you that I have not read this brief as yet. I've just now had an opportunity to look at parts of it, and I'm digesting some of the figures that Mr. Ziemba is stating. I'd be pleased to have him continue on it.

Certainly, as minister, I'm not in variance, and I know our ministry is not in variance, with the comments that are being made. We have the greatest of respect for our teachers and we take nothing away from what you're saying; but please continue.

Mr. Ziemba: Yes. I've asked you, Mr. Minister, about education in corrections. I have asked you specifically why you're cutting back on education in corrections, and you indicated that it was simply a case of declining enrolment.

In "D," the brief makes the point that there isn't declining enrolment. They've taken the various correctional institutions, and indicated how many teachers there are in each one and what the inmate population was in November 1978, compared with January 1979; it's a fairly representative period. You'll find that there is no declining enrolment. If anything, the jails are as populated now as they were then; in fact, the population of them has increased.

I won't get into the individual institutions, but just as an example, I indicated in my opening statement—Mr. Minister, you didn't respond to it—that we have 2,678 correctional officers, 121 superintendents and deputy assistant superintendents, 170 maintenance staff and 322 clerks and secretaries. Altogether, we have a classified staff of 3,786; and yet there are only 48 teachers.

Maplehurst has more teachers than any other institution, it has 17.5. Burtch has seven, Thunder Bay CC has five, Vanier has five, Hamilton-Wentworth has two and Monteith has three. Most of the others have one: Toronto East, Toronto West, Windsor, Kenora, Elgin and Oshawa. There are not too many teachers, and I wonder why this is. In

fact even in your estimates, where we list skills and trades and structures, the figure listed is 34; but it says nothing, absolutely nothing, about teachers. Teachers aren't even listed as classified staff. I suppose there is an explanation for that. I'd be interested in hearing it.

Before we get into that, if it's true—and you agree with me it is true, the recidivism rate is 22 per cent in a teaching institution, one that offers courses in life skills as well as trade courses—then why aren't we doing it in all the institutions and cutting down on recidivism, because that's where the heavy cost is?

I also wonder about the work programs. Although we have heard so much about work programs, I still saw an awful lot of inmates just sitting around on their bunks yesterday in Guelph, or just standing around in corridors or in little groups doing nothing. It seems to me teenagers, and the majority of them are teenagers, should be forced to take courses; it should be compulsory. With all your good intentions and all the work programs in the world, if an individual doesn't know how to read or write or doesn't have any job skills, then he is not going to be able to survive when he gets out.

In Maplehurst, I was struck with another observation. You don't have a liaison person, a teacher or whatever, who would help an inmate once he is released. I guess your mandate ends on the release date. There is no one to see an ex-prisoner gets a job, or is enrolled in a community college; or indeed, if he even has anywhere to go. I think this is a real problem, the fact people are released and they don't have jobs, they don't even have job prospects. I think you are falling down on the job there, Mr. Minister.

I hear the Premier (Mr. Davis) talking about the need for machinists. I am just trying to find his quote here. The Premier talked about the fact we need machine shop operators, and the one machine shop operator you had you let go. I think that was in Burtch, but I am not sure. I can't understand why you are doing this and I'd like an explanation from you in this regard.

There have been studies, of course. In fact this examination of adult training centres is a study undertaken by Mr. Tony Tam and Ms. Sally Rogers of your planning and research branch. The principal and staff of Maplehurst have replied to that study in "G" of the brief. I am sorry, I don't have the recommendations here, but they are available.

I think this booklet is available to the public, although I've just received it for the first time today. They comment on the five recommendations the study makes. It is my understanding this is the first of three studies. There are two studies to come, two studies to follow. I wonder why you are cutting back on staff, why you are cutting back from 54 to 48 before you get these studies and before you find out if education plays a role in corrections and what role it plays.

Hon. Mr. Walker: Mr. Chairman, I am glad to respond to the question, and I do want to enlarge upon the question of teacher instruction that is provided in our facilities.

As you know, it is not just teachers who provide this education in our system; and to quote the number of teachers we have and say that's education within our system, is not entirely accurate. Undoubtedly it's a significant part of it, but please keep in mind that in addition to the 56.5 teachers we have in our 17 institutions, there are 35 trade instructors providing service not unidentical to the feelings you are expressing for more of this.

We have, of course, several hundred volunteers providing various types of education, teaching life skills and things of that sort. In fact, even our 2,700 correctional officers are teachers of a sort; I am not trying to take the word and play on it, but in effect they provide an awful lot of educational service within the system.

We have 70 nurses who teach things like health, hygiene and nutrition, and 50-odd recreational instructors who provide a service that is somewhat similar; I won't say identical, of course, I don't intend to say that at all.

As of September 1, seven of the teaching positions were considered redundant in our minds, and we have located these at Guelph, Burtch, Windsor, London, Metro East, Ottawa and Hamilton. There are a number of things to keep in mind. Five of those seven facilities are short-stay facilities; Windsor, London, Metro East, Ottawa and Hamilton are remand centres, and they are obviously centres where, in the short stay that the individual has there, we cannot provide a particularly good service. We need to have a fair amount of time with an individual in order to provide more than just a blush at the system. So we have some obvious problems there.

The one at Burtch to which you made reference is a machine shop position. Frankly, if we had our druthers, the machine shop would be one that we would prefer to keep open; it has provided a very good service. Regrettably, we are bound by the collective agreement there. We really don't have any

say. He is the low man on the seniority pole at Burtch.

Burtch was overstaffed in terms of measuring it against other institutions of a similar nature, the Rideau, Monteith and Brampton facilities. Certainly Burtch was overstaffed in terms of PTR, if I can use that word; I don't mean pupil-teacher ratio but rather, I suppose, prisoner-teacher ratio. At the Burtch facility, when it was decided from a management point of view that one of the positions would be considered redundant, regrettably it was the machine shop position because the individual there was the lowest person on the totem pole from a seniority point of view; he had something like six years versus the 23-24-year type of person. So it was the collective agreement that came in to make the decision on the machine shop, and we are somewhat disappointed from that point of view.

In addition to that, we have had a fair amount of expansion in the past with the CRC expansion over the year. We have gone from 271 to 478 people, and that has taken about 100 of the eligible class of people out of the system to go into CRCs where their education is being provided for on a much broader spectrum, in that many of them are attending community colleges and many are attending high schools and returning to the CRC at night. We think under the circumstances, for those individuals that has been more appropriate than 24-hours-a-day maximum incarceration.

[4:30]

In addition to that, the parole system has taken some 400 people out of the system who would be the more eligible ones for the training. We also have under temporary absence over the last two months alone some 57 people who are in an educational stream. Most of these people are out of Monteith. They're going to the local high school or community college and returning at night.

By and large we're maintaining our level of service; we are not cutting down. In the machine shop case there are other facilities throughout the province, and people who show a particular bent to machine shop will be accommodated.

The reduction of some seven teachers has basically allowed us to consolidate our teaching program. The ratio will be about one teacher to 10 once we've consolidated the system, and that's considered pretty good in correctional terms. That is not even taking into account the fact that we have a good number of those people attending the education courses who are part-time students.

If there are some specific questions I might ask Dr. Hug or Mr. Tilden at the end of this table, who's the chief education officer, to participate in that discussion. Are there some specific questions, Mr. Ziemba?

Mr. Ziemba: Yes. We didn't talk about any liaison officer—

Hon. Mr. Walker: There's a liaison officer at Maplehurst.

Mr. Ziemba: —who would see that the next prisoner had a job.

Hon. Mr. Walker: Mr. Daniels, am I not correct that there's a liaison officer at Maplehurst

Mr. Daniels: Yes.

Hon. Mr. Walker: You referenced Maplehurst, Mr. Ziemba.

Mr. Daniels: There's a probation officer doing institutional liaison. He is assigned full time to the Maplehurst correctional centre, and part of his role is discharge planning. You heard earlier in the debate here about the new classification system which will put discharge planning officers in place at all detention centres and correctional centres. That program is expanding; I have a long list here of employment programs for parolees through the probation and parole service. There are just too many of them to read into the record—private agency contracts with youth employment services, special needs assistance programs, outreach programs and second chance programs all across the province to assist parolees and people coming out of institutions in finding employment. These are funded by the ministry and the manpower services of the federal government. So there's lots being done in that area.

Mr. Ziemba: The Maplehurst staff under recommendation four of their brief, talk about the point you've just made, Mr. Minister, about short termers. They make the argument that short termers can indeed benefit from school programs.

Hon. Mr. Walker: I'm not really sure where you're reading now.

Mr. Ziemba: I'm sorry. There's the letter to Mr. Tilden—"G", another part of the brief—signed by the principal, Mr. Baker, on behalf of teaching staff.

Hon. Mr. Walker: Hold on just a second now. That's in the top part of the brief?

Mr. Ziemba: Towards the back.

Hon. Mr. Walker: And what is that now?

Mr. Ziemba: "G"; it's a letter to Mr. William Tilden, chief education officer, from Mr. F. R. Baker, the principal, Maplehurst, on behalf of the teaching staff of Maplehurst.

Hon. Mr. Walker: Yes.

Mr. Ziemba: In recommendation four—if you just go on from there three more pages, page three.

Hon. Mr. Walker: Do you have that, Mr. Tilden?

Mr. Tilden: Yes.

Mr. Ziemba: Page three, recommendation four: "We agree with this recommendation in the hope that 'alternative programs' can include teaching programs in those areas where great deficiencies are evident; for example life skills, basic reading, basic mathematics."

Hon. Mr. Walker: As this is a letter to Mr. Tilden, I wonder if Mr. Tilden might respond to that point. He probably has the letter now.

Mr. Ziemba: They make just that point that short termers can indeed benefit from school programs. "In three months the student may make the following advancement in basic skills"; and they go on to say remedial reading.

Hon. Mr. Walker: When I talk short term, I am talking 30 days or less. I'll seek some help from staff here, but the average length of stay in the remand centres—five out of the seven redundant positions being declared are in those remand centres—the duration of stay does not average three months. Mr. Duggan, do you have a figure on that?

Mr. Duggan: It's about 25,000 people, I think, that we are talking about, in terms of what you have just described.

Hon. Mr. Walker: That's those serving fewer than 30 days?

Mr. Duggan: Right.

Hon. Mr. Walker: So 25,000 are serving fewer than 30 days, and I would daresay that a significant number are serving only one week, two weeks, three weeks. Probably two thirds of that 25,000 are serving just a fraction of a month. My gosh, I don't even think we can get them outfitted with a pen and paper in that time. No; we are faster than that, I guess we could.

Mr. Duggan: I think it's nomenclature here. In a correctional centre such as Maplehurst, a short termer would be someone who has about three months to do in that institution. In our terms a short termer in a jail, or a detention centre as you have just described, is someone who may be doing probably around 30 days.

Hon. Mr. Walker: And the redundant positions are being declared in respect of Burtch and Guelph. In Guelph there is an adequate facility to continue the interest that has developed there. There is one teacher whose remedial reading—in a quasi sense I don't think that's quite the qualification, remedial teaching is what that person is doing; and three other people in that same facility can and do provide that, three others and the principal, I believe. There is also the trade instruction there. So it's just Burtch and Guelph that are a serious consideration there.

Mr. G. A. Kerr: Just as a point of interest, in recommendation four, assuming it's a three-month term, it indicates in the fourth item, blueprint reading, one can become conversant with any print found in industry. Who would make that assessment? That's amazing, if a person who was found to have certain deficiencies in life skills, basic reading and basic mathematics can in three months become conversant with any print found in industry. I don't know if I am misreading that reference or not. It's wonderful if it can happen.

Hon. Mr. Walker: That training is still provided in the woodworking shop; I believe it falls into that, doesn't it, Mr. Tilden?

Mr. Tilden: At Maplehurst, actually, the program is specifically blueprint reading.

Hon. Mr. Walker: And that is still provided

Mr. Tilden: Yes, it is.

Hon. Mr. Walker: That is not being cut back?

Mr. Tilden: By coincidence we have the expert here, and I am not that person. He is Doug Foley. He is the teacher of that program and since this—

Hon. Mr. Walker: Would you like to respond to this, Mr. Foley? Let's swear you in as a special constable of the committee for the moment.

Mr. Foley: When we wrote this, each one of these individual things was not necessarily dependent on the next. Each one is a separate thing that could be taught in three months. I'm talking about teaching blueprint reading so that someone is conversant with any industrial blueprint he would find in three months, and I stand behind that statement. I am not talking about taking a student who cannot read and in three months teaching him how to read, how to do math, have life skills and have blueprint reading.

Hon. Mr. Walker: Mr. Tilden, where else is blueprint service provided?

Mr. Tilden: It's provided not as a specific program but in relation to our other shop

programs in all of our other centres. Maplehurst has a –

Hon. Mr. Walker: The ATC is at Burtch, Brampton?

Mr. Tilden: That's right; within the context of the welding and sheet metal program and the woodworking programs–at Monteith and Burtch and Rideau, yes.

Hon. Mr. Walker: Yes. So I guess the short answer to your question, Mr. Kerr, is that really there is no diminution of that particular service that is being afforded to inmates, whether it be at Rideau, Brampton, Burtch; or where the best one probably is of course, at Maplehurst.

Am I being unduly flattering to you on that, Mr. Foley?

Mr. Foley: No, I don't think so.

Mr. Chairman: Any further questions or comments? Mr. Ziemba.

Mr. Ziemba: The staff summarizes its comments on page four: "We find the report interesting as an expression of what the inmate thinks he needs. We do feel that the researchers are to be congratulated for their diligence, but I am sorry that they did not wait until the whole research was finished before presenting recommendations which may or may not be supported by the whole study. We strongly urge that there be a study by ministry professionals involved in these programs, such as superintendents, chief educational officers and so forth."

Hon. Mr. Walker: Dr. Hug might respond on that, Mr. Ziemba.

Mr. Ziemba: When are we going to get the results of that study?

Hon. Mr. Walker: Let's hear from Dr. Hug.

Dr. Hug: That will be approximately one year from now, Mr. Ziemba. The recommendations in the first report, which primarily addressed the issue of the inmate characteristics for those participants in ATC programs, include certain recommendations which could be decided on at this particular point in time, before the final report is in. The final report will have two focal points. First of all, the usual one in terms of recidivism and further criminality. There are some previous data about incarceration rates available for these ATC type of inmates.

If I could just quickly go back to your earlier point, Mr. Ziemba, about recidivism rates. The figure in table 13 from the research report by Tam and Rogers represents a different kind of recidivism rate and it really can't be compared with the 22 per cent. To be specific, of the 68 per cent of those 500 or so people in the Tam and Rogers study, how many had previously been in an institution? At this point, we don't know what per cent of the Tam and Rogers sample will recidivate, whereas the 22 per cent–if I am thinking about the same figure, not having had the opportunity to read the brief at all, but I am aware of a figure of 22 per cent emanating from Maplehurst–is the actual recidivism rate for people leaving the program.

So the point is that the 22 per cent and the 68 per cent are not directly comparable because we are using completely different definitions.

Mr. Ziemba: If the 68 per cent is the recidivism rate for people who are there in the correctional side, as well as the ones coming into the program, then aren't you impressed with the 22 per cent rate of people leaving the teaching side of Maplehurst?

Dr. Hug: No, I must say I can't be, because I am surprised that the 68 per cent isn't even higher. What the 68 per cent refers to is people who are now sitting in Maplehurst, be it on the ATC side or the CC side. What percentage of those people have been incarcerated in the past? In many cases, the percentage is even higher. If one takes a different definition of prior criminality – if you include in this measurement, probation, let's say–then the percentage with prior criminality approaches 100 per cent. It is well known that by and large a person isn't admitted into one of our CCs and ATCs on his very first offence. A variety of things were used in the past. For example, the 68 per cent might refer to a lot of relatively small jail sentences. There is usually a progression of crime so to speak, and also penetration into the criminal justice system.

The usual, normal pattern on the first offence, let's say, would be something like a probation or suspended sentence. Then if there is a further offence it would be a short term, let's say seven days or 30 days, which would keep the people in regional detention centres as opposed to these CCs and ATCs that we are talking about here.

[4:45]

If there's a further offence, the offender might come back to the CC and ATC for a longer period of time, let's say something like 18 to 24 months. Of course at the ultimate, if the criminal career continues further, the sentence would be something greater than two years, which would take the person into a federal penitentiary.

The only thing I can really relate to, to be frank with you, Mr. Ziemba, is the 68 per cent in isolation. I can't draw any comparisons between that and the 22 per cent because we're looking at two totally different measures.

Mr. Ziemba: The minister talks about maintaining a level of service, consolidating education. How can you maintain a level of service by cutting back on teaching staff? How can you consolidate anything when you have fewer staff in this area?

You can argue statistics with me, but I am impressed with the fact 22 per cent of prisoners who go through the education system don't wind up back in jail. If it's working, then why the hell cut back on it? Why not expand it? Never mind maintaining it, let's expand and see if we can't lower the overall rate of return.

The other thing we heard earlier is that one in five prisoners is illiterate. Is that true?

Mr. Tilden: Yes, I think that's basically true. I think one in five in the normal population is basically illiterate.

Mr. Ziemba: You've got 5,000 prisoners and 48 teachers who are supposed to make them literate. That's disgraceful.

Hon. Mr. Walker: Excuse me, Mr. Ziemba, the rate of illiteracy might be worthy of an explanation. Are you saying it is not different between the prison population and the public at large? Is that what you're saying?

Mr. Tilden: Yes that's what I'm suggesting.

Mr. Chairman: Isn't it a fact though that in the public at large the age level would be considerably higher than in the population within your system?

If you took the average illiteracy rate in the same age level in the public at large, 20 per cent would be extremely high because the major group in the illiteracy group in the public at large is people over 60 years of age. I got my degree in adult education I think on the figures on that.

Mr. Tilden: I don't know that last statement to be true at all.

Hon. Mr. Walker: I don't think you quite mean that the way it's coming out. What you're saying is you're not aware of whether or not it's the case.

Mr. Tilden: That's exactly what I'm saying. Thank you very much, Mr. Minister.

Mr. G. A. Kerr: Is that what you're saying, Mr. Chairman?

Mr. Chairman: Yes, I'm saying in terms of functional illiteracy the population over 60 is a very large group. One of the problems of the pre-retirement counselling and retirement counselling programs in the lower income groups is the problem of functional illiteracy.

Mr. Tilden: One of the problems that meets anyone who tries to do something about the problem of illiteracy is to have the illiterate person declare that fact and get ready to do something about it. It's something that is incredibly well hidden wherever illiteracy exists. I think maybe if what I'm saying applies to the general population, then it's even better hidden within our population. With that problem being hidden and with the need for motivation to change, we're in a tough spot in education to try to handle it. Once we find it, we can do a good job. I have no doubts about that, but I'm afraid we'd have a lot of difficulty finding that 20 per cent in our population.

Mr. Ziemba: Here's a letter addressed to you, Mr. Tilden, from Michael Hoare, co-ordinator of the behavioural science program, Fanshawe College, dated March 28, 1979:

"Dear Sir:

"I was dismayed to find out yesterday that the education co-ordinator's position at the Elgin-Middlesex Detention Centre has been declared redundant and will cease to exist after August 31, 1979. I feel compelled to express my opinion to you since I strongly believe that although one education co-ordinator is a very minimal contribution to the rehabilitation process, it is nevertheless a step in the right direction. Since constructive rehabilitation is inherent in the term 'corrections,' it would appear that this is clearly a regressive step. In fact, I wonder if, without the work of an education co-ordinator, there is now any rehabilitation program at Elgin-Middlesex Detention Centre.

"From my personal interest in corrections, my past involvement with the Elgin-Middlesex Detention Centre as a field placement for my students, and reinforced by some recent studies into adult education in correction settings in my doctorate studies, the need for qualified teachers located in correctional facilities is glaring. The unquestionable need for upgrading in remedial mathematics, communication skills, problem-solving and life skills is ever present. Criminality correlates inversely with functionality. Accordingly, the need for a professional educator is so clear.

"This need has been accommodated with increasing effectiveness over the past two years and I strongly believe that the program's success at Elgin-Middlesex Detention Centre directly relates to the amazing dedi-

cation and hard work of the education co-ordinator himself.

"Clearly, the need is still there, yet the resources to meet it are now scheduled for removal. Apparently the position cut is unrelated to declining enrolment, which would justify this action. In addition, I do not see the rationale or criteria used for cutting the Elgin-Middlesex Detention Centre's education program while other detention centres retain theirs.

"In discussing the situation with my students, who have been on placement all year at Elgin Middlesex Detention Centre working as tutors in the education program, there is no question whatsoever in their minds of the value and positive effect the program activities provide for the inmates with whom they have been working. Clearly, it is the only tangible evidence of rehabilitation in the Elgin-Middlesex Detention Centre.

"I feel strongly and deeply about this matter and sincerely request that the position of education co-ordinator at the Elgin-Middlesex Detention Centre be reinstated. It is a grave error and a clearly regressive step to eliminate this position.

"Thank you for your kind consideration. Michael Hoare."

What is your response to that, Mr. Tilden?

Mr. Tilden: It certainly is a good letter of support for the work of that teacher and I would support him in a similar way; he certainly has done a commendable job.

The minister mentioned a few minutes ago this is a very short-term population. That is one of the reasons we find it difficult to have the kind of successes we should have in education. Education can't be a short-term thing. I agree with the statement in the Maplehurst response to the ATC report that if we had a three-month period we can do many things. If we have 30 days or less, and many remanded prisoners and all, we are quite frustrated in any efforts to do much. That is one reason we have decided not to carry on with that program.

We have put some other things in action there, and this is stepping up our classification and the new role of community correctional officer, which we think will serve that institution very well. The classification can serve to get inmates from that centre into our long-term institutions where we can do a full job in education and where we have the services. Those kinds of reasons I offer you as our reasons for eliminating that position.

The point of eliminating that one and not some others is that we haven't given up hope in this experiment which we started a couple of years ago in detention centres. Things have changed for us; the term of stay is shorter. We still have two similar positions that will operate next year. The importance of that to me is we will see how that educational role can work with the new roles coming into play; the community corrections role and the classification role. There are many ways they work hand in hand; we will have the chance to look at that during the next year, and we intend to do that.

Mr. Ziemba: Surely, Mr. Tilden, looking over the list of teachers assigned to each institution, you would agree with me that Guelph, for instance, with an inmate population of more than 500, should have more than three teachers?

Mr. Tilden: In fact, it has four.

Hon. Mr. Walker: Plus the trade instructors.

Mr. Tilden: Plus six trade instructors, who are a very important part of our program; we need that mix of staff. Maybe if we remembered the comments of Mr. W. Taylor, the superintendent of Guelph, from our tour yesterday, he emphasized the difficulty with motivation and the difficulties of that population. That presents a real problem. If we had any notions of expanding our educational services there, I think we would be faced with very reluctant students, beyond the levels we have now.

Mr. Ziemba: I will yield the floor to Mr. Bradley.

Hon. Mr. Walker: Just as a followup, not to the last point you have made, Mr. Ziemba, but to the question of detention centres, where five of the seven redundant positions have been so declared, the average length of stay in our detention centres is nine days. It is very difficult to provide motivation or even to provide proper sampling of some course. That is the kind of problem we are facing.

Mr. Bradley: On the first page of the brief —this is the first time I have seen it, so I don't have the advantage Mr. Ziemba had of being able to peruse it and make detailed comment on it—number six talks about the employment of unqualified people to teach both compulsory and regular school-age students. What are the qualifications required? The suggestion here is that you have unqualified people teaching within the system who wouldn't obviously have the same academic qualifications that would be required in a regular secondary school situation; is that correct? If so, what are the qualifications they do have?

Hon. Mr. Walker: We are rather impressed with the general level of qualification of our teachers. I don't know that that point quite jibes. Perhaps, Mr. Tilden, you should comment on that.

Mr. Tilden: Our teachers are very highly qualified, as a matter of fact, with all of the kinds of certification they might get from the teacher training facilities. What may be referred to here is the group of people who are trade instructors—classified civil servants who are not teachers but instructors. I think the federation is referring to that group rather than to teachers.

Around the point of compulsory and regular school-age students, we have none. We are dealing with people who are 16 years and above, and our average student is probably aged about 21; so the provisions which might be found in the Education Act, and which relate to compulsory schooling and so on, don't apply in our case.

Hon. Mr. Walker: I would imagine, with respect to the seven teaching positions we have declared redundant, the individuals who, as a result of the collective agreement ended up as the least senior in the overall scheme of things, have basically been guaranteed other jobs as of April 10. Let me put it this way: By April 10, all of the people have been directed into other jobs within various ministries; not just necessarily in the Ministry of Correctional Services. One individual is staying within this ministry and the other six are going to other ministries where they will function as teachers in the same capacity, perhaps doing different things; but basically that's it.

Mr. Bradley: Would these movements require a physical movement of that person to another locality?

Hon. Mr. Walker: In some cases. For instance, the chap who ended up in the low spot at Burtch as a result of the collective agreement, will go from where he is now, near Brantford—he is a few miles south of Brantford at Burtch—a few miles farther south of Brantford to Simcoe, under the Ministry of Community and Social Services, where he will be operating in the same capacity at Glendale School.

[5:00]

Mr. Bradley: One of the concerns that was expressed by those to be displaced at Glendale last year, when we had the opportunity to visit the facility and discuss at some length with the staff there the problems that existed, was that when an individual had to be transferred, of course it's not just that one individual situation that has to be taken into consideration but often that of the spouse, who might be employed on a permanent basis in a reasonably lucrative position, but does not have that same opportunity to transfer.

Hon. Mr. Walker: No one in Glendale, incidentally, when it was closed, suffered from that problem. They did not physically have to move from their locale.

Mr. Bradley: This is the situation you always have to look at when you're displacing people, it is not just their own job and the fact that they have to move, but the other adjustments that have to be made in the family, and we're aware that if there are any other disruptions within the family, hardships may result.

Hon. Mr. Walker: Well, I'm sure I cannot give you a clear bill of health on that question and say nobody will be dislocated or disaffected. I think all of them will be regrettably affected in some way. I think it's been kept to a minimum, although the whole system has not been sorted out. For instance, after Glendale there were some individuals who were quite happy where they were in the Hamilton, Brantford, Niagara and Thorold areas, so happy that when they had an opportunity to return, they opted not to return but wanted to stay where they were. So, usually these things sort themselves out, although I have to tell you that probably at this moment they're not perfectly sorted out. Mr. Tilden probably has a more intimate knowledge of the details of the individual moves.

Mr. Bradley: When we talked about providing an alternative position, would it be one that is comparable in terms of pay and responsibility?

Mr. Tilden: Yes. Certainly in terms of the pay. The collective agreement prevails across all of these institutions. The scale is the same, no matter where one would be located. I might say that as of April 10, and we're pleased to have a start on this process of placing people, we got to the level of a guarantee. This process will continue and, if there are other vacancies that come open in the system, we know the intentions of these people and they may find happier placement as the weeks and months roll along. This is the time of year when you would expect some mobility in the teaching population, so I don't think we're finished.

Mr. Chairman: Can you comment on the comparison of salary levels of teachers of equal qualifications teaching similar subjects, some in the community-college system and some in the high-school system?

Mr. Tilden: In the high-school system the level is virtually the same. There are a few

differences here and there as the grid gets laid out, but basically the collective agreement that the school authority arrives at in negotiations with the federation takes into consideration the provincial averages and so on, and hits that mark quite well.

Mr. Chairman: Is it not a fact, though, that historically teachers in training schools are underpaid compared to teachers in the public school system and in the community-college system?

Mr. Tilden: I don't think so. The one compensating factor is a special allowance which all teachers in the provincial schools receive, and that brings the salaries into line. So, if the grids look different, that allowance compensates.

Mr. Chairman: We're talking about a couple of thousand dollars, are we not? You're saying that it compensates for that much difference?

Mr. Tilden: We are talking about an allowance for the classroom teacher of $1,465 on top of all of his moneys from the grid based on years of experience and qualification. That allowance is a standard. There are others for different positions of responsibility.

Mr. Chairman: Is that based on a 10-month year?

Mr. Tilden: Yes, it is.

Mr. Ziemba: I wonder, Mr. Chairman, if Mr. Wessenger could comment on that last statement?

Mr. Chairman: Would you comment on that, Mr. Wessenger?

Hon. Mr. Walker: I guess we have to swear Mr. Wessenger in as a special constable as well.

Mr. Wessenger: I wonder if I could also comment on the member's reference to item 6, because there seems to be some confusion in our brief? The Education Act requires the boards employ qualified teachers. We do have, as you know, students in the adult system between the ages of 16 and 21. Those students, who would be taught in a regular school system, must be taught by qualified teachers. The trade instructors are not qualified teachers, so we said both compulsory and regular school-age students. There are no, as far as I know, compulsory school-age students, but there are regular students in our system.

With respect to the closings last year in Glendale, most of those teachers and their families did have to move. Also, there were seven teachers who were declared redundant this year, as Mr. Tilden has indicated. We are in the process of placing them but they are going to displace seven probationary teachers because of our collective agreement. As a result of a cutback in a program which we don't accept, there will be seven people losing their jobs.

As far as the salaries are concerned, I think we have argued for years that that special allowance referred to by Mr. Tilden reflects the fact we have additional responsibilities, which normal classroom teachers don't have, in dealing with special-education students in an institutional setting.

Mr. Chairman: Can you comment on what form of professional development there is among the teachers? Are there budgets available for them to attend professional development seminars, conventions, et cetera?

Mr. Tilden: Yes, there is a budget. It is not a large budget; none of our budgets is large these days. There is a budget that I administer that allows for those kinds of experiences for teachers, and within the institution there is also the possibility of some budget to support those kinds of activities. With their courses and conferences, the teachers are quite active, as a matter of fact, in utilizing their professional activity days quite well.

Mr. Chairman: Do you have sabbaticals or any form of study leave?

Mr. Tilden: Yes, we have what is known as the educational improvement leave and this allows a teacher to be away for a period of up to a year at three-quarter salary. That committee met a couple of days ago to recommend a list of teachers for such leaves and I expect they'll be approved in a week.

Mr. Chairman: What happens when a teacher takes advantage of that three-quarter-salary leave? Is his or her position guaranteed and seniority guaranteed on return?

Mr. Tilden: Yes, the seniority is certainly guaranteed. The position, or a similar one, is guaranteed if something has displaced that particular position. I have forgotten the exact wording in the collective agreement but it's very clear.

Hon. Mr. Walker: It's the same as in the secondary system, isn't it?

Mr. Chairman: Except there are problems within the community-college system at the moment. There is a particular case I won't comment on because I have a conflict of interest in the community college.

Mr. Ziemba: Before we leave that item, Mr. Chairman, on the seventh page of the federation's brief, they talk about educational

costs. There's something I find interesting. It costs $2,400 a year per students in a local school board and only $1,100 in an adult training centre. I wonder if I could ask Mr. Wessenger to explain it. Before he does, it goes on—and this deals with the minister's statement about the futility of having an awful lot of teachers because the average stay in a detention centre is nine days. Here we learn that the average number of long-term incarcerates is 1,900. So, while the average stay may be nine days, there are still 1,900 people in there.

Mr. Tilden: I am speaking only of remand centres in the correctional centres in our ATCs. There is no question that the length of stay exceeds nine days.

Mr. Ziemba: I wonder, Mr. Wessenger, if you could explain the fact that taxpayers are asked to pay about half the average education cost per student when they are locked up as against the cost when students are on the outside?

Hon. Mr. Walker: Mr. Tilden, do you agree with that figure?

Mr. Tilden: Those figures are somewhat strange. I could rationalize the $1,100, I think. The source of it would be one centre, Maplehurst. Looking at all costs, from salary costs, benefits, services and supplies but not any physical costs; and then looking at the number of students involved in that program in a year, that figure of $1,100 will work out fine. I understand it. As far as the local school board is concerned, I don't know how they arrived at their figures.

Hon. Mr. Walker: They used debentures. They would include the debentures in it, where we cost the building in the first year. The capital cost is $10,000,000 to erect a building. It's there, and $10,000,000 is put on the table in one year. That is not the case with a school facility. It is, in effect, mortgaged over a number of years and interest is paid; the approach being a debenture approach. Debentures are included in the cost so I am sure that reflects some of the discrepancy.

Mr. Tilden: There is another factor in there that I think I see. That is that our students stay quite a short period of time; three to four months for a long-term student. So, naturally, we would run more of them through the program and it should cost less per student. The community would hold a student for 10 months, so naturally cost would be more than for a three- or four-month period. I think that's the only way I can respond to those figures right now.

Mr. Ziemba: The brief talks about the educational needs in corrections and about the fact there are 1,900 long-term incarcerates, and it estimates the number of teachers needed for remedial programs. In remedial-program needs, 30 per cent of inmates have 70 teachers for basic academic and vocation upgrading, 30 per cent of the inmates would mean they'd need 56 teachers, and finally, in students in the regular school programs, 12 per cent of inmates, 45 teachers. That adds up to 171 teachers, Mr. Chairman.

In the past, from time to time, the opposition parties have tried to deduct moneys from a particular ministry when they felt the money wasn't being spent properly. I wonder if it's in order for this committee, in its wisdom—and I see Mr. Bradley silently approving what I am about to say—to decide to fund the 123 additional teachers and give the ministry that much more than these estimates call for. Is that in order?

Hon. Mr. Walker: It might be a question of confidence but, other than that, I don't see any difficulty with it.

Mr. Ziemba: Could I—

Mr. Chairman: Are you moving a motion of no confidence, Mr. Ziemba?

Mr. Ziemba: I am going to move that this committee fund 123 extra teachers to try to cut down the recidivism rate in our provincial institutions, as a one-year experiment.

[5:15]

Mr. Chairman: I can't accept that, Mr. Ziemba. You may propose a motion to delete some expenditures but not to add to them.

Mr. Ziemba: We've done that in the past.

Mr. Chairman: Furthermore, I would advise you that if you start tinkering around with a budget you are getting into a no-confidence area. Mr. Bradley's ears are getting redder and redder—

Hon. Mr. Walker: A great day for an election might be May 28.

Mr. Chairman: I'm finding it tiring enough to go through a federal election at the moment but, as long as you know what you're doing, go ahead.

Mr. Ziemba: I'm asking you for a ruling. Is that in order, Mr. Chairman?

Mr. Chairman: I just indicated it was not in order. I was hoping you wouldn't do it so I wouldn't have to make the ruling.

Mr. Ziemba: I won't embarrass you, Mr. Chairman, by challenging the chair, even though I know Mr. Bradley is most anxious to.

Mr. Chairman: With the tremendously large quorum we have, I have no doubt that your challenge would carry—

Hon. Mr. Walker: We're glad you came back, George.

Mr. G. A. Kerr: What do we have, a motion?

Mr. G. Taylor: No, we're just having an election.

Mr. Chairman: We were going to have the embarrassment of me, as the New Democrat, voting with the Conservatives if you hadn't come back; so I'm glad you came back.

Mr. G. Taylor: It would have been one of the better things you'd done in years.

Mr. Chairman: Sometimes you have to give away your principles to political expediency.

Hon. Mr. Walker: I want you to know, Mr. Chairman, that we kept all our principals in our system this time.

Mr. Chairman: It's only the teachers you're laying off.

Mr. Ziemba: Before we leave this item, Mr. Chairman, I would like to get a commitment from the minister that he perhaps review his decision to cut the seven teachers until the final study is handed down at the end of next year.

Hon. Mr. Walker: Mr. Chairman, I'm not prepared to say I will delay the redundancies until after the study is handed down. I am prepared to say we're sufficiently open that we will look again, not just at the seven teachers whom we would continue to declare redundant, but also at the overall question of teaching. That's certainly something we can do.

Mr. Chairman: Before passing the item, I wonder if you could give us the figures for the total amount spent last year on professional development in your system.

Mr. Tilden: I'm afraid I can't do that off the top of my head. I could get those figures.

Mr. Chairman: It would be appreciated, because my indication has been that over the years it hasn't been very high.

Hon. Mr. Walker: It's very difficult to do that, because in essence it's buried in the individual budget of each institution. I suppose we could go to each institution and find out the cost; if that's of continuing interest to you, Mr. Chairman, I think we could probably do that. If it's of less continuing interest than it might otherwise be, we would prefer not to go to the expense of doing that.

Mr. Chairman: It has always been of interest to me. I lost a job with your ministry one time because you couldn't find the budget to hire me to replace a fellow who was going on sabbatical; but that's a personal interest. You might not have had me here then; I would have been sitting out there instead.

Item 2 agreed to.

On item 3, institutional program development:

Mr. Bradley: This deals somewhat with medical services, and I have perhaps a few questions dealing with that. I think it was on November 28, 1972, that the results of a report were put out. The report was called An Inquiry into the Health-Care System in the Ministry of Correctional Services. That report contained an appendix, E, which was entitled Report on Ethics in Human Experimentation. That appendix was prepared for the dean of the faculty of medicine at Queen's University in April, 1964, I think, but it makes no specific reference to experimentation within Ontario institutions.

I wonder why, then, and this may be a difficult question in the context of 1979, this appendix E, Report on Ethics in Human Experimentation, is included in the report of the Ministry of Correctional Services inquiry. It leads me into the question of whether at the present time there is any experimentation going on in the Ministry of Correctional Services, not necessarily being conducted by the ministry but by any outside agency. I would be interested to know whether this is taking place at all, in any form, whether volunteers are participating in medical experimentation.

Those words often have a dreadful connotation that I don't wish to convey to the committee, but if we have people who are volunteering, it would seem to me there should be provision for a consent form to be signed. Is this the case, and is the person free to make a decision without the intervention of force, coercion, fraud or duress? Does that person have sufficient knowledge of the comprehension of the experiment to make an enlightened decision?

Some of these questions may not be necessary if we find out, of course, that none of the people within our provincial institutions or under provincial care of Correctional Services is participating in experimentation. Perhaps I should leave the question at that.

Dr. Humphries: A very interesting question, Mr. Bradley. To my knowledge there is no medical experimentation going on within our system in Ontario. That doesn't mean

there isn't some, but within my knowledge there is none and I'm pretty sure that I would be aware if there were some going on. We recognize the rights of the individual to have treatment or refuse treatment, to go on a starvation diet or not, and, in the same way, we would respect his rights as to whether he wished to participate in an experimentation project as well.

If in fact we did decide to move into that area for some particular reason, for example, if research were showing it was valuable elsewhere or there was indication to believe it might be and we were going to consider it, we would definitely use consent forms. We would not, in any way, use any coercion or express any coercion to the individual and if we were using some kind of conditional process, for instance, we would respect all the ethics involved there. In other words, when the person running the thing shocked the inmate, he would also shock himself; all those nice little bits that are tied up in the proper ethics.

Mr. Ziemba: Have you been approached by any individuals or organizations in this regard?

Dr. Humphries: No, I haven't, Mr. Ziemba. I've been involved in the past myself in experimentation projects and we always acknowledge the ethics involved. But in my role in this ministry for this purpose, that has not occurred.

Hon. Mr. Walker: The only other prospect might be the Rahway experiment or, at least, the STYNG, which is slightly medical in its approach. I suppose it's an aversion type of approach but that's fringing the medical so I'll just qualify it to that one aspect. I don't think there are any others.

Dr. Humphries: Not that I'm aware of. That's a very good point, Mr. Minister. That comes more into our community approaches. It has a certain educational aspect.

Hon. Mr. Walker: Of course, that's outside the institution. That would be, basically, with probationers; we have some in Belleville who are participating in the STYNG program.

Dr. Humphries: And that is run by a community agency group so they would have the responsibility for the experimentation aspect.

Mr. Bradley: Dr. Humphries mentioned that to his knowledge this is not taking place at the present time; I'm sorry I didn't catch whether he was aware of whether or not this has taken place in the past within the Ministry of Correctional Services.

Dr. Humphries: It depends upon what we mean by medical experimentation. At one time at OCI, Dr. Gotkind was involved in some studies as it related to a particular area, but again, we have to differentiate whether we refer to all studies as being experimentation.

Mr. Bradley: In the ministry inquiry, the only other reference to human experimentation and the subject of voluntary consent is a very brief section entitled Clinical Investigation or Human Experimentation.

Hon. Mr. Walker: What year was that?

Mr. Bradley: We're talking about a report that appeared in 1972.

Hon. Mr. Walker: I have to admit I haven't read it.

Mr. Bradley: A confusing statement appeared in that and said as follows: "No documentation was found in the ministry indicating that: (1) inmates gave written consent, after full and complete explanation, of their willingness to participate as subjects in experimental programs conducted by medical doctors, psychologists or social workers; (2) projects involving human experimentation had received review and approval by a formal group, by the superintendent, and by the directors of medical services, of social work or of psychology, according to the research worker(s) involved." The question I have is does this mean consent forms and formal approval were found in the ministry or not?

Mr. Chairman: We got the date of the report, but not the title.

Dr. Humphries: If I may, Mr. Chairman, I imagine that's what we refer to as the Botterell report. Dean Botterell was, in fact, my dean. I think the important point which has to be made here is we have studied that report in detail. I've gone through it personally in the 2½ years I've been with the ministry. We have looked at each of the recommendations. We have taken what is appropriate for us and introduced as many as possible of these recommendations.

I think the important point I am making is that I cannot state from here what happened prior to 1972, but I can say that from two and a half years back and in the future, what we do will be done ethically and consent forms will be used, et cetera, going along with this area.

Mr. Bradley: I have a question of the minister dealing with policy. I realize this is coming down out of the blue on the minister, but I'd ask the minister's view, generally speaking, on whether he feels it's a good idea to allow medical experimentation,

I realize I'm using broad terms when I say medical experimentation. Does the minister feel medical experimentation should be allowed within the Correctional Services system, taking into consideration all necessary safeguards would be there? Does the minister have any views one way or the other on that?

Hon. Mr. Walker: At the moment, I'll retain my views to myself, to the extent I have any. Frankly, I have no views on the point you've raised and I would prefer to take it under advisement and give some consideration to the point. At the moment, I'm not equipped to answer the question.

I don't know whether there are other programs you want to touch, but the chairman advises me you've got 12 minutes left in these estimates. If there is another program you want to touch, I'd be glad to continue this discussion in this area. We've got people here to do it, but there may be other questions in later votes. I would think that come 5:45 most of us are going to flee the place for the vote in the Legislature.

Mr. Chairman: We must put all the votes by 5:42.

Mr. Ziemba: I don't have too much more, Mr. Chairman, although I'd like to bring to the committee's attention page 54 of our briefing material. I think we just carried this vote, but it's still interesting. Maplehurst is compared to Mimico and the projected per diem cost $50.87. This is amazing. Maplehurst has a $50.87 per diem cost per inmate. This is an educational facility. Mimico, which is strictly warehousing, is $48.14. That is a $2 difference. There are other interesting comparisons. Burtch, I guess which has the next highest number of teachers, is $56.71.

[5:30]

Hon. Mr. Walker: I don't know whether the members are interested at this point but we do have a tiny package of slides on CSOs, which is in the community area and where we are spending $20,000,000. This is the next vote. Certainly I don't want to deal with this if you're not finished.

Mr. Ziemba: No, it was just that point. I should have raised it before we carried the vote.

Hon. Mr. Walker: If the members are interested, the community vote is the next vote. Are you interested in the CSO slide presentation?

Mr. Ziemba: Yes.

Hon. Mr. Walker: Perhaps you'd lead us into that, Mr. Chairman.

Vote 1602 agreed to.

On vote 1603, community program:

Item 1 agreed to.

On item 2, probation and parole services:

Hon. Mr. Walker: Let me introduce you to the CSO program. Is that a sound-over, Don? I wonder if someone could extinguish the illumination at the back of the room.

The committee watched an audio-visual presentation.

Hon. Mr. Walker: That, incidentally, was the voice of the assistant superintendent at Guelph, whom you met yesterday.

Item 2 agreed to.

Items 3 to 6, inclusive, agreed to.

Vote 1603 agreed to.

Mr. Chairman: Shall the estimates be reported?

Some hon. members: Agreed.

Mr. Chairman: I would like to thank the opposition critics, the minister and, of course, the excellent staff of the ministry for their help in these estimates.

Hon. Mr. Walker: Mr. Chairman, I would like to thank everybody in the committee who participated, the Conservative members, the Liberal members and the New Democratic members, for the role they have all played in these, my first estimates. It's a new experience for me, I can assure you, and I find it very interesting. I am pleased and grateful that many of our programs met with the satisfaction and acceptance of the critics of the two opposition parties.

Any interested members of the Legislature or members of this committee, and the critics particularly, are welcome at any time to talk to anyone within the ministry and should feel quite free to contact them; I am sure they will receive very courteous service.

Mr. Chairman: For the benefit of members of the committee, we will be sitting on Wednesday to deal with one private bill. From my reading of the bill, I suspect it will be something that will take a maximum of 20 minutes, but one can never definitely forecast that.

There is a problem with the Ministry of Consumer and Commercial Relations. The minister has informed us he is not prepared to go ahead with his estimates. Regarding the next ministry on our list, the opposition has informed us it is not prepared to go ahead with the estimates.

I suspect this committee, unless some horse trading is being done at the moment, will meet next week for only a few minutes on Wednesday morning.

Hon. Mr. Walker: I'd be glad to lay on another tour.

Mr. Chairman: Perhaps the past Minister of Correctional Services feels that the estimates he's going into are not going to be quite as amicable as the ones he had last year in this ministry.

I would remind the members that there's a vote in the House.

The committee adjourned at 5:41 p.m.

ERRATA

No.	Page	Column	Line	Should read:
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Bradley, J. (St. Catharines L)
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Philip, E.; Chairman (Etobicoke NDP)
Taylor, G. (Simcoe Centre PC)
Walker, Hon. G.; Minister of Correctional Services (London South PC)
Ziemba, E. (High Park-Swansea NDP)

From the Ministry of Correctional Services:
Coughlan, D. W., Chairman, Ontario Board of Parole
Daniels, A. F., Executive Director, Community Programs
Duggan, M. J., Executive Director, Institutional Programs
Foley, D., Teacher, Maplehurst Complex
Hug, Dr. J. J., Director of Planning and Research
Humphries, Dr. P., Senior Medical Consultant
Thompson, G. R., Deputy Minister
Tilden, W. R., Chief Education Officer
Wessenger, J., Executive Co-ordinator, Federation of Provincial Schools Authority Teachers

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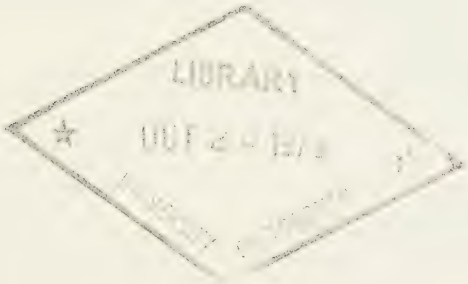
Ontario

No. J-5

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of Consumer and Commercial Relations



Third Session, 31st Parliament
Wednesday, October 10, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

WEDNESDAY, OCTOBER 10, 1979

The committee met at 10:09 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

Mr. Chairman: The committee will come to order.

Substitutions will be Mr. Breithaupt for Mr. Roy of the Liberal Party, and Mr. Michael Davison for Mr. Lupusella of the NDP. I understand there will also be a substitution of Mr. Rotenberg for Mr. Kennedy. Although I haven't received official notification, it is coming down at any moment.

We have approximately 20 hours in these estimates of the Ministry of Consumer and Commercial Relations. Before dealing with the minister's opening statement, I would ask the clerk to pass around to you photocopies of a proposal by Mr. Breithaupt, the Liberal critic, who has proposed a schedule for these estimates. I understand he has met with the NDP critic, Michael Davison, and that the schedule is acceptable to him. I am sure the minister will go along with the schedule as well.

Mr. M. N. Davison: Jim and I just had a chance to talk briefly about it this morning, but I think we have come to an agreement that recent developments at Condominium Ontario necessitate our spending a bit longer than we might normally have intended on Condominium Ontario.

I guess I don't have to tell you about what is happening there. The story in yesterday's Toronto Star, the charges involving unfair hiring practices at Condominium Ontario, the apparently forced resignation of one of the directors and some of the circumstances involving that, along with a number of other things that seem to be coming out of Condominium Ontario, necessitate some kind of consideration by the estimates committee. At the moment that seems to be the most appropriate body.

I noticed, Mr. Chairman, that you said you were going to approach the government about some sort of inquiry. I don't know if you've done that or what the response is.

Mr. Chairman: My concern was as an MPP representing a riding where Terry Littlefield was president of the Etobicoke Condominium Association and was forced to resign. I thought the appropriate action would be to take it up with the government House leader and ask if he wanted to refer the matter to the committee. In order to do that, I simply brought it to the attention of my House leader. I understand he has written a letter to Mr. Wells on the subject.

Mr. Breithaupt: Mr. Chairman, perhaps while we are discussing vote 1505, property rights, on Thursday afternoon, October 18, if this timetable is accepted, there is the opportunity to discuss the condominium circumstances during that particular item.

The registrar general topic scheduled for the next morning might not be a lengthy one, so there might well be the opportunity of dealing with that matter under that heading if that was reasonable for the committee. We would then be using up the time available to us, unless you had a particular purpose to seek either additional time or a separate reference, depending on your views of how the situation could be best resolved.

Mr. Chairman: I think it could be under vote 1505 or under vote 1502. It probably is easier to deal with it on Thursday, if that's what your wish is, then you have the Friday in case additional time is needed.

Mr. Breithaupt: It is just a suggestion.

Mr. M. N. Davison: I think doing it under vote 1505 is good because we can start on Thursday. I think we can easily get the extra two hours on the Friday.

Mr. Breithaupt: I would presume, Mr. Chairman, with the greatest respect to the work of the registrar general, there is perhaps not a lot to be asked about in that vote. Therefore, if it was necessary to take additional time on the Friday, we could possibly deal with the registrar general's vote first and complete that in however much time that might take, and use the balance of that time for additional comments, if required, on the Condominium Ontario item.

That might be a happy way to resolve both the particular issue and to use the time of the various ministry personnel to best advantage, so that those who are not involved

on a particular day need not attend the meetings of the committee.

[10:15]

Mr. M. N. Davison: I think that Mr. Breithaupt's schedule, with that possible degree of alteration, is quite good.

Mrs. Campbell: Mr. Chairman, I obviously don't want in any way to quarrel with my colleague, but I do have some concerns about the matter of rent review being left to the end with two and a half hours. There are some rather serious problems which have developed and which have come to my attention.

I feel that perhaps two and a half hours and a cutoff, with no flexibility there, is a problem to me. If liquor licensing might not go to the three hours indicated, and we might have some flexibility at the end of that, I personally would appreciate that. That is the other item that I think merits consideration—as I see it, no flexibility at all for discussion.

Mr. M. N. Davison: I think there probably is some degree of flexibility. For example, we are not going to start at 3:30 on Thursday, I suspect. We will lose another 10 or 15 minutes, quite probably, on starting times. I think we will end up with a chunk of time at the end, in addition.

Mr. Breithaupt: I recognize, Mr. Chairman, of course, that the rent review thing is the most important one. I rather expect that members such as Mr. Ziemba also will have presentations to make on the liquor licence theme.

It is difficult, in a ministry that covers so many areas, to thoroughly look at each of the themes. We don't want to miss any one of them. If we have some flexibility, as we see how things develop after a week or so, I think that would be useful for the committee, so that we have the benefit of looking at those latter votes with every bit of thoroughness as the earlier ones.

Mr. Renwick: Mr. Chairman, perhaps Mr. Breithaupt and Mr. Davison might agree, because of Margaret Campbell's remarks, to switch the Wednesday and Thursday at the end, and put the rent review on Wednesday and the liquor licence board on Thursday, so that we are not under some pressure at the end on that particular issue. In a priorities judgement, I think I would have to support her on the rent review. If we could switch Wednesday and Thursday, that would be just fine.

Mr. Breithaupt: That's just fine.

Mr. Chairman: Fine. So we will adopt Mr. Breithaupt's proposed schedule, with the changes being that vote 1508 will be on Wednesday, October 24, instead of October 25, and vote 1507 will be on Thursday, October 25, instead of October 24. We have also agreed that on Thursday, October 18, we will devote some time, and if necessary, on Friday, October 19, to an inquiry into what is going on at Condominium Ontario.

I see we have the support of the members of the committee on that. That is our schedule; I am sure it will be of some assistance to the ministry in having the appropriate staff people here. I would like to remind members of the committee, since we are starting a new group of estimates, and we have been away for some time, of the memo I have read to you, from Mr. Hugh Edighoffer, Deputy Speaker, on March 29, 1979: "The chairman of the committee considering estimates shall apportion the time available among the minister, opposition critics and all other members. Latitude shall be permitted to opposition critics on the first item of the first vote of each set of estimates and thereafter members shall adhere strictly to the vote under consideration."

I feel it's very unfair to some members who spend a lot of time in the committee waiting to bring up a particular concern under an appropriate vote, for some other member to simply jump in on the first vote and take up a lot of time. So I intend to stick to the schedule we have adopted and I intend to enforce fairly rigidly the suggestion in the memorandum from the Deputy Speaker.

Opening statement by the minister.

Hon. Mr. Drea: I think I'd like to devote my time to giving you an overview of our plans for the next year, which are organized around four main priorities: access, consumer protection, regulatory reform, and productivity.

In terms of access, we're taking action to improve the public's access to our programs. The Residential Tenancies Act has been passed and we're gearing up to provide consumers with ready and immediate information and advice in all aspects of landlord and tenant relations. As we had a commitment within the old general government committee concerning access to the new offices, we will set them up in such a way as to have extended hours of operation. We will be able to provide assistance in over a dozen different languages.

The same approach is being taken with the consumer information centre here in Toronto. We've introduced a call-collect long distance telephone service with capacity to answer consumer inquiries in English, French

and Spanish. The ministry is also adding a full-time co-ordinator for French-language services in preparation for expanding the information and services we provide in the French language.

Just as an aside, this type of operation I think proved its worth when the question came up involving the non-share companies which had not filed their three-year reports. There were over 1,400 of them facing dissolution. We're fully aware of the fact that invariably a non-share capital organization that wants to go out of business just doesn't file a report. But by the same token, many of them were volunteer organizations and with secretary changes and so forth the law leaves the minister very little discretion after the due date. The basic penalty is a fee.

With the co-operation of the media, which announced the final cutoff date, and by virtue of that service we came down to only three disputed cases, out of all of them. Two involved solicitors. In the transfer of the organizations' papers from solicitor to solicitor, there's no question there was an error there; the solicitors admitted to it. I don't really think their errors and omissions for $250 was brought into play. It turned out there was only one doubtful case. And we gave them the benefit of the doubt.

In the past, anything like that has resulted in a great deal of hardship across the province. This type of call-collect, where you can call a place and be read the computer printout or ask what your organization was, I think has proved its worth in that regard.

There's always the possibility, of course, that people are going to abuse it. I think that is a mistake. We've yet to have this service abused. I don't think people abuse it. That isn't to say you don't get some people on there who probably shouldn't be talking to this ministry but to another one. But by and large it has worked very efficiently and very well. We are experimenting this year with extended hours of service in the Toronto consumer complaint handling office to help consumers who can't come to the office during regular working hours.

People need more than just access to the information and service; they also need access to the policy. On all major legislation we've actively and publicly sought input.

Improved consumer protection is a major priority for the ministry, quite naturally. We will pursue an active, visible investigation policy in areas of our legislation which concern consumers most.

The auto repair business will be one of our priorities. We've stepped up our investigations. As I said last December, we will be using and are using ghost cars to obtain quotes on repair work. The utilization of the ghost car enables us to go beyond just the sales representation. The vehicles are very carefully assessed in an evidentiary way before and after the repairs are supposedly made, so that actual work done can be properly evaluated. We will be expanding this type of program substantially over the next year.

I must say—as I have always said—I have the greatest reluctance to use ghost cars routinely. On every occasion when we use ghost cars, we have reasonable and probable grounds. I don't ever want to get into the position where we're using ghost cars without reasonable grounds. I think it is somewhat unfair to mechanics to use a ghost car as a test of their ability, just on a spot check basis, as do some other jurisdictions.

I think there is an argument that the mechanic is a diagnostician and that he goes into secondary causes. He never presumes it's a loose wire unless a wire is actually dangling. There's a great deal of controversy about the way it's used in California, and I'm not enamoured of it.

Mr. Renwick: Who makes the decision as to reasonable and probable grounds? I take it what you're ruling out is the random use of ghost cars.

Hon. Mr. Drea: Yes.

Mr. Renwick: Ruling that out and going to the basis of a reasonable and probable cause, who makes the decision?

Hon. Mr. Drea: On the basis of a complaint, or of many complaints.

Mr. Renwick: It's on the basis of a complaint or a number of complaints, on which whatever investigation you have taken you feel a concern you would categorize as reasonable and probable grounds. Do you make that decision or does the registrar?

Hon. Mr. Drea: The registrar. But bear in mind the utilization of the ghost car, or whatever you want to call it, doesn't necessarily mean there is going to be a charge laid, or anything else.

Mr. Renwick: I understand that.

Hon. Mr. Drea: And in terms of a complaint, it has to be somewhat of a detailed complaint. Not just, for example, "I didn't like paying $50 for this kind of work."

Mr. Renwick: But there's absolutely no random use. You're not sending—

Hon. Mr. Drea: Sending 40 out to see what we can find? No.

Mr. Renwick: For some general fishing expedition?

Hon. Mr. Drea: No, I don't like fishing. There are other ways we can have fishing expeditions without the utilization of ghost cars.

It is somewhat interesting, though, that other provinces want to start using them. What they do with it, I don't know. It appears to us their position is that it saves them a trip to California.

Mr. Renwick: And if you were going to change that policy, you would let us know? You would make a statement in the House?

Hon. Mr. Drea: Yes, I would, Mr. Renwick. Furthermore, I would not only let the Legislature know, I would let the industry know. The industry has traditionally—and I guess this is going back to the days of Bill 55—made some very strong representations, which I can sympathize with, and I have said so. As I say, it's not a fishing expedition.

You can use fishing, if you want to, on the sales approach. But where you're actually using a car that has been altered, that's a little bit different. I don't think anyone would have objections to spot checks on sales representation. I know of no other way to do that.

Mr. Renwick: You were talking specifically about the repair of a car.

Hon. Mr. Drea: Yes, an altered car, a car that has been deliberately altered. I don't want to put it on the record as to how we know a repair hasn't been made, but I think from your experience in the courts, you know. [10:30]

In addition, we are also increasing efforts in consumer education. In the spring, we produced a series of radio commercials on auto repairs designed to warn consumers of some of the problems they can get into and how to avoid them. We helped by co-ordinating information on some of the industry programs available to the consumers, such as the Ontario Motor League's approved repair facilities and the Insurance Bureau of Canada's, as well as Royal Insurance and State Farm—I guess Allstate—appraisal centres.

I should say here that the odometer question, which I mentioned some months ago, is one you may wish to get into in some detail. This situation is still epidemic at the very least. It has brought the widest of concerns and has now become a two-way street with the individual owners spinning, particularly on leased cars where there is a penalty for going over a certain mileage.

Mr. Breithaupt: Is that happening on the longer-term leases?

Hon. Mr. Drea: Yes, where there is a mileage of 70,000 kilometres, say, after which you pay three cents a kilometre. The dealers are absolutely frustrated because the cars are coming back in with odd amounts of mileage. There is nothing they can do about it.

We have had instances where a very reputable dealer took the word of a car wholesaler who was going out of business and took in 28 cars. Each and every car from that wholesaler had been spun. The company was very good about it. They came to us when they found out and put a disclosure on the windshield of the real mileage, which we were able to establish for them. When a very reputable new car dealer, who was simply short of late-model used cars at a particular time and acquired some through the industry, when even as professional an organization as a new car dealer can find himself the victim of a spun odometer, then the situation is extremely difficult.

Once or twice a week, depending on the resources of the local police department, because it is far beyond our resources now, you are seeing people pulled in on odometer spinning of enormous dimensions.

Mr. Breithaupt: I presume it is also not a matter of particular priority with the police departments with the many other things they have to do. Are they attempting to get a handle on this by working at it?

Hon. Mr. Drea: The auto specialists within a police department, whether it is an auto squad in the larger regional forces or just a couple of detectives in the smaller ones, in my view, really should direct their resources to stolen or altered cars. That is becoming a high-priority bit of work across the province.

When you have to get into somewhat detailed investigations—and there is no question but that it is consumer fraud—it can be a matter of monumental proportions because it is not a $10-item. If you alter the right car, it is a question of $1,000 or $1,500. You now have a transition situation within the automobile industry where people want a pre-catalytic converter car and are willing to pay money for it on the grounds that they can still use regular gas which achieves a saving and produces more gas mileage.

Mr. Breithaupt: Or a recent larger car where the models have stopped and the mileage is still low.

Hon. Mr. Drea: With those particular models, if you spin them down to 40,000 miles in the case of models for 1974 or thereabouts, that is, quite frankly, a reasonable mileage that a second car in a family would record. That skyrockets the price. If you knew it had done 95,000 or 98,000 miles, you would know it has been driven relatively hard.

You can see the amount of mileage involved when people are driving on leased cars over a 30- or 36-month-lease, which a lot of people have taken. You can now get a spinner by appointment. It usually costs $35. Everybody is doing it. It is becoming very difficult.

I talked this over with the federal minister about what could realistically be done. Bear in mind, if they are spinning in Ontario, since a great deal of the used-car stock for western and eastern Canada is wholesaled out of Ontario, it is right across the country. The consumer is absolutely defenceless. As long as the speedometer has a reasonable amount on it, you can alter the outside of the car, put on medium-wear tires and build a whole scenario around it.

When we get into business practices, we have some suggestions about what we would like to do. I think the end answer in the thing is there is going to have to be, at the point of resale, a mileage certificate on the ownership paper that is going to be transferred.

Mr. Breithaupt: It might even come to the point of getting a logbook and following through the mileage, owners and all these other things; although it might be more trouble than it's worth.

Hon. Mr. Drea: Mr. Breithaupt, I don't think the chairman of this committee or myself are convinced about the value of logbooks. They had them in another industry and we had chapter and verse—

Mr. Breithaupt: That can just as easily be abused.

Hon. Mr. Drea: I think there should be a place on the certificate you get from MTC, when you go to pay your dollar or two dollars, where it shows the mileage. This may have to come.

Mr. Breithaupt: This would build up a track record for that vehicle as it goes through its life cycle, and give the consumer some chance.

Hon. Mr. Drea: Yes. Your new one coming out would have 35,000 miles on it. Every time it was transferred there would be an additional amount of mileage on it. It would have a pedigree.

It is quite true you can check for the pedigree now, but most people don't.

Mr. Breithaupt: It might give that a higher profile if it was developed as a pattern of operations by the ministry.

Hon. Mr. Drea: It's not just a drain on the police forces and the OPP, it is now a major drain on the RCMP.

Mr. Breithaupt: Because of the transfer of vehicles right across the country.

Hon. Mr. Drea: The federal government is very concerned and has been for several months. I happen to know that two weeks ago a great number of car dealers were visited by the RCMP. The problem for the car dealer is the thing has been altered many times in the past, before he even gets it. This is putting a tremendous strain on police resources, which are expensive. I think Mr. Lawrence said it was costing $500 million a year. In any case, the amount of consumer fraud on odometers is in the hundreds of millions of dollars. I forget whether it is $300 million or $500 million, but that's academic; it is a very real problem.

A great many innocent people are caught in the middle. They have bought a car in good faith and want to sell it privately. If in the private deal someone checks back and finds the odometer is altered, then the problem is, just who did the altering?

I would welcome any of your ideas at the time this comes up. It is a question of a multimillion dollar fraud. It is widespread and the traditional methods of enforcement I don't think will work. You can't assign the necessary amount of resources to the problem. Anything you can think of would be of interest.

There is no use going to the industry and asking for a tamper-proof odometer; you can take their latest product up to Maplehurst or any of the other places I used to run, and in 30 or 45 seconds it can be altered. It is a mechanical thing, you can't put a seal on it. They have tried all of these things and the guys beat them faster than they can think them up. They put ink on them and they learn how to drain the ink before they spin. They spin and then put some fountain pen ink in and seal it with a little bit of white glue.

To get back to my statement: In the interest of shareholders of public companies, the securities commission has been taking prompt action in contested takeover bids involving hundreds of millions of dollars. The Hudson's Bay-Simpsons contest, and the Thomson-Weston bidding war for the Bay are examples.

Following developments a few months ago regarding Brascan, we closed a loophole in the present law respecting takeover bids made on foreign stock exchanges. In all of these matters, the commission's objective is full disclosure and equality of opportunity for all shareholders.

Certain companies have recently been eliminating public participation in their

enterprises. The commission has developed special disclosure requirements and tests of fairness that must be met in these squeeze-outs.

The Commodity Futures Act passed last summer was proclaimed on September 1. We are confident investors will benefit from that legislation.

Consumer protection is not solely legislation and investigations. For example, we worked this summer with the consumer studies faculty of Windsor University and local citizen self-help groups to provide better consumer education programs in a low-income housing area of that city. Results of this project will help us determine needs for consumer education programming throughout the province.

I think you have heard me say this before. I think we have enough legislation, enough protection, enough information and enough access for the middle-class or middle-range consumer. What we want to get down to now—and I don't like to use the word, because it is not necessarily economic—is what I call the disadvantaged consumer.

I will start off with the minister. If the law didn't prohibit me from owning land or stocks and I went into that market, I would be a disadvantaged consumer, because I don't know anything about it et cetera. Then there are the aged, who have different problems from the run-of-the-mill consumers because of fixed income. There are also the handicapped, who have problems because their mobility is affected.

Last summer, for instance, we began consumer education for the retarded. Five years ago everybody would have said we were foolish. What could a retarded person possibly do? Well, more and more the retarded —and I am talking about the active retarded —are going to be out in the marketplace for most of their lives. They are going to be trained very briefly. They will never be institutionalized; they are going to be out there. We started off with university students and so forth over the summer to start trying to come to grips with that very specialized field that is going to be upon us.

We also have the Cornwall project getting under way, where we are trying to look at what we can do in terms of the whole community—not the government coming in and setting up a program, but the whole community and its agencies. What can we do for them in order that they can better do the job they are already doing?

We will be increasing support to groups in terms of staffing, training and co-operation. We have already conducted a number of local workshops with community inquiry centres. Quite frankly, the information program depends upon better information and co-ordination of resources across the province.

I cannot emphasize too much the importance of the recognition by government of the role of the community groups in helping. I think we should be having the community groups helping directly in the community, and the government only standing by as a resource for them.

In terms of consumer protection, we will be introducing compulsory automobile insurance later this month. We have made a very thorough study of compulsory automobile insurance programs in other jurisdictions. We are confident we can avoid the pitfalls that have developed in other schemes. We are indebted to the select committee on company law—Mr. Renwick isn't here, but Mr. Breithaupt is—for its deliberations on this over a great many years.

Of course, one of our particular concerns is the discrimination in insurance rates. As everybody knows, we have been working with the industry to establish fair rates for good drivers who are now grouped with those who are poorer risks. Under the insurance section, I am relatively confident we will have an agreement by the time we come to that.

Mrs. Campbell, you are smiling at me. I can assure you, the female driver in this province will be ecstatic about the program.

Mrs. Campbell: I will be happy to hear there is a breakthrough for the female driver.

Hon. Mr. Drea: She will be happy. She will keep all of her benefits, and as long as she drives well, as she has proven very conclusively over the years, she will be a preferential risk. She will only fall into the pitfalls of the male when she becomes a bad driver, and she can always clean up her act and revert back to preference.

Interjection.

Hon. Mr. Drea: You can't discriminate against good driving, and over the years females, based upon the accident statistics—

Mrs. Campbell: See!

Hon. Mr. Drea: I bought your book for $10, and I will need some indulgence. I paid cash.

Mrs. Campbell: And you handle consumer protection; is that what you are claiming? It is a very worthwhile book.

Mr. Lawlor: There is no warranty with it.

Mr. Chairman: Both Mrs. Campbell and the chairman have read it.

Hon. Mr. Drea: I have to go for my annual eye test. I will wait until after that.

[10:45]

Incidentally, something we did commit ourselves to, if not in the last estimates, very shortly thereafter, is the individual smoke detector in each individual apartment. As you know, the regulation has been passed; it will become effective in new buildings on January 1.

Perhaps I might just digress in terms of the building code. Mr. McClellan and Mrs. Campbell, I don't think raised it in the estimates, but they sent me a letter shortly afterwards dealing with the perennial question of the Rembrandt homes. They were a number of homes that were built, I think in North York, which certainly aroused a great deal of controversy and so forth by the owners, because they did not have the workmanship one would expect. I suppose that is the simplest way of putting it.

Mrs. Campbell: "Reasonable workmanship" I think is what they were saying.

Hon. Mr. Drea: I think I have said things about Rembrandt in the past. I don't want to bring it up again because there is some litigation with them involving one of the owners. In any event, I would agree with whatever you want to say about Rembrandt.

Mr. Breithaupt: That is a pretty general statement.

Hon. Mr. Drea: It's a pretty general situation.

Mrs. Campbell: I would like an expansion for the generalities of that situation because I think that is where consumer protection has fallen down.

Hon. Mr. Drea: As you know, the difficulty in the Rembrandt situation is they were built prior to the HUDAC home warranty program. I think it was always implicit that the homes should be repaired, although the argument laterally has not really been that. It has been on the question of why the principals of Rembrandt homes were registered under HUDAC at the time.

Mr. Breithaupt: With that on their record.

Hon. Mr. Drea: It was a judgement call. People were terrified of litigation.

Okay. They are there. I have worked out an arrangement whereby all those homes will be repaired and I have communicated that.

Mrs. Campbell: What about the general situation? I think my reference was to more than one specific case. Rembrandt was one, yes, but my concern was over the fact that as long as you can escape by forming a new company, you get accepted by HUDAC and the public can be very badly misled.

Hon. Mr. Drea: I don't really think that is happening, Mrs. Campbell. Perhaps when we come to the specific debate—

Mr. M. N. Davison: Son of Rembrandt is still registered under HUDAC.

Mrs. Campbell: It is happening.

Hon. Mr. Drea: No question about that. I don't think that is what she is asking.

Mr. M. N. Davison: I am sure that is what she is asking.

Hon. Mr. Drea: No; this was initial registration.

Mr. M. N. Davison: That is what she is asking right now.

Mrs. Campbell: I am asking on the generality of it.

Hon. Mr. Drea: You couldn't, Mrs. Campbell.

Mrs. Campbell: You are saying you can't protect the consumer.

Hon. Mr. Drea: No. You could not have a situation where Rembrandt homes were built, the repairs were not made, and people were coming in under another name. They simply wouldn't be into the home warranty program; they would be out.

Mr. Breithaupt: At the present time HUDAC—

Hon. Mr. Drea: Name me one, Mr. Davison.

Mr. M. N. Davison: Son of Rembrandt—those guys are still registered.

Hon. Mr. Drea: Yes, and since they have been registered under their new name they have performed according to the code, so they can't be put out on that. Those homes are going to be repaired.

What I am saying to you today is if Frank Drea, the builder, doesn't come through and HUDAC has to pay, Frank Drea doesn't come in next week as Drea Frank after a bankruptcy or something like that. They simply don't get in. The reason Rembrandt went in—and I was not the minister at the time; I think I would have taken the court case. Of course, that is hindsight. I wasn't there.

On the basis of what Mr. McClellan and Mrs. Campbell raised, those homes will be repaired. I will probably be giving details to the local members as to the specifics of how these people get in touch and so forth, on the grounds that these people have communicated. The difficulty is the litigation. Obviously, nothing can be done until the litigation is ended but it is still there for them.

Mr. M. N. Davison: That's good news.

Hon. Mr. Drea: I don't know how many are in litigation but I communicated that to them.

Mr. Breithaupt: How many are involved with the litigation now? Is it a class action or are there a large number of individual writs?

Hon. Mr. Drea: I know of only one. I don't think it's a class action. It would be very difficult to do a class action, because the deficiencies in the houses are not identical in each house.

In one piece of litigation I know, there was expert evidence retained—structural and so forth. Whether that case is in the courts, I don't know; but they will be brought up to standard. If they are in litigation you can't alter the situation, but after the litigation, and I think it is a pretty fair one, the only obvious way you would get a repair would be if you lost the litigation. If you won the litigation, you would be having it done.

That was a concern in the last estimates. It was raised very eloquently by Mr. McClellan, and subsequently you wrote. That has been accomplished. I would like to get those homes repaired by the end of the year if possible. But it will be done at no cost to the home owner.

The regulatory reform, or simplifying the way government works so that it is easier for the public and more efficient for us: we redrafted the Cemeteries Act to simplify procedures and clarify municipal responsibilities. We will be introducing that later this month.

Mrs. Campbell: What are we doing for consumers in the Cemeteries Act?

Hon. Mr. Drea: Protecting them from highrises, and anything else, Mrs. Campbell.

As a matter of fact, the new legislation will be a distinct advantage to the consumer on the grounds that family burial plots will be much cheaper to maintain, and to bury additional people in. There have been some technical difficulties in the past, because of the act, which have led to very expensive payouts by the family.

Mrs. Campbell: Have you ever been in Naples, Mr. Minister? They have highrise cemeteries in Naples.

Hon. Mr. Drea: That's because of the soil conditions, Mrs. Campbell. You can go to New Orleans where people are buried 10 feet above ground.

At any rate, there will be a full debate in the House on it. It is not a glamorous subject.

There is also one, incidentally, that is a very personal one. The headstones, markers and that sort of thing, vary with the culture. I will tell you, the flat marker is on the way out in our culture, because of the multicultural orientation and the more ornate monuments.

That's not on the subject of highrise I'm talking about the alteration of an existing cemetery into a great thing, which is an intrusion on the neighbourhood, and so on.

That bill will be introduced. It has been out to the entire industry for comment prior to introduction. We are very confident that bill will resolve the perplexing question of the Indian mounds. It will bring Indian burials into exactly the same situation as early immigrant burials. Up until now, there has been a great hiatus on the burial mound. It is not a cemetery; it is not treated as are plots on the back of a farm in eastern Ontario, where it was quite common to have burials. We have brought that all into line.

There is the very difficult question about reinterment, because there is a different approach by many Indians. Some regard the soil as sacred and that it cannot be removed. With the remains it is different. There is no question about the reserve cemetery; there is no problem there. The native people of Ontario—the Metis, treaty, et cetera—are going to sit down and discuss what the procedures should be. It will probably take a couple of years, but in the meantime there is now, or will be as soon as the bill is passed, protection for the Indian mound burial ground—exactly the same protection as if you had human remains found on the back of a farm, or had to go through a cemetery for public works, such as the seaway or some of the highways.

Mrs. Campbell: What are you doing about perambulating cemeteries? In one title I was searching some years ago, the cemetery was indicated but we couldn't find it on the description. I didn't know where it went, or if it still existed. Fortunately, by now they wouldn't come across it in their title search. What do you do about those things in a new subdivision?

Hon. Mr. Drea: It's called "give them the edge." It's all you can do.

We are also working within the ministry towards maximizing self-regulation. One of those, again, is unglamorous. We are really trying to do it in the upholstered and stuffed articles industry without a complex regulatory procedure. That's a very interesting one, because we do most of the work for all of Canada, because of the import situation and so on.

The advisory committee on the Personal Property Security Act is working in co-

operation with the property rights division and the companies division to explore the possibility of repealing the Corporation Securities Registration Act and of amending the Personal Property Security Act to have its provisions apply to corporation securities. This possible move is seen as a means to eliminate existing confusion, ambiguity and duplication—not to ignore the Lerner decision, either.

We are continuing the search for opportunities to share our responsibilities with industry. We hope to encourage more trade associations to establish self-regulatory mechanisms.

Probably in the spring session, because with the legislative load in the House now I don't think we can get there, we intend to introduce legislation to improve general insurance provisions in Ontario. Amendment of the Insurance Act has been studied for some time now by the ministry and also the select committee on company law and the industry itself.

There is substantial agreement that changes are necessary to ensure a high and sustained level of service and protection of the public and to encourage greater competition. The third report of the select committee on company law is out and the staff are now assessing the recommendations before drafting legislation.

We want to study the mechanisms now established for regulating the industry. Many of the rules now used to determine financial solvency, for example, are arbitrary and overcautious. They place restrictions on the industry and provide little consumer benefit. The excellent solvency record of the Canadian insurance industry speaks for itself.

We are also considering a formal monitoring mechanism to resolve consumer problems. The staff now monitor complaints informally with a great deal of success. We want to see if we can't expand that.

These initiatives would complement the steps we are already taking to provide the self-regulation for the general insurance industry. Of course, we can deal with a great number of those under the insurance end.

Within the next few days there will be a very significant change in insurance; we are going to free up the farm mutual companies. We will be introducing legislation which will remove restrictions on those farm mutuals—not cash, but the farm mutuals. When the restrictions were included in the original legislation it was to ensure protection for the policyholders. I happen to think that the farm mutual industry is very mature and that with its reinsurance programs and so forth has more than met the test of time. We are going to free them up in the open market for fire insurance. They are going to be able to underwrite fire insurance on anything.

The reason I say it is very significant—and I will have to take responsibility politically for this—is because there will be concerns expressed by the general insurance industry. I think we have to put the cards on the table. The general insurance industry in this province and in this country is multinational, by and large. The farm mutuals are Ontario-capitalized—Canadian-capitalized, if you want.

This ministry has been bringing along the farm mutual industry as a source of a new Canadian-capitalized insurance industry. They have performed remarkably well and I think you can expect there will be more evolution; they are moving up step by step. It is very significant that these are capitalized in Ontario. It is an Ontario-nurtured insurance group that I think will provide a great deal of competition in fire insurance, which is not a mandatory form of insurance, so there will be more availability of fire insurance, not just in the rural areas.

[11:00]

Also, this confirms the policy we are trying to encourage, by far more than lip service, a Canadian—I hope an Ontarian—but Canadian-funded insurance industry that will grow. I think the people in the farm mutuals deserve a great deal of credit. They haven't tried to plunge or anything else. They're perfectly prepared to proceed at an orderly pace. I think this is very significant for Canadians.

In productivity, as you know, we've speeded up the incorporation of businesses by privatizing the process of corporate name searching and decision-making. The over-the-counter system of incorporation which transfers incorporator responsibility for compliance with the requirements of company law has been developed. This is already doing things because it's helped the businessman by reducing the incorporation process from the present 14 days to 48 hours.

Probably next year we'll be introducing the new elevating devices act which will improve our efficiency in the area of public safety standards.

Again, this fall we'll be introducing a package of what are really housekeeping amendments. There will be legislative amendments to the Certification of Titles Act, the Land Titles Act and the Registry Act to pave the way for a streamlined and automated land registration system in the prov-

ince. I've sent out details on that proposal to both the Liberal caucus and to the NDP caucus. I think they've received theirs.

Mr. Chairman: It will save us some legal fees.

Hon. Mr. Drea: Yes, and quite frankly, if we weren't embarking on what is known as Polaris, within about six or seven years we would have to close registry offices for up to three to four weeks just to do the abstract work. That doesn't mean we'd be taking off during the month of July. It means that they would just have to close and that you wouldn't be able to consummate a land transfer or a house transfer, with all of the problems inherent in this.

I happen to think that the land registry—and that includes the Land Titles Act—in this province is light years ahead of the United States and other jurisdictions when you look at the volumes that are being transacted.

The Polaris will enable the local registry office to remain. It's not a centralization program where they're all going to disappear and everything will be on the big board in Toronto. Not at all. As a matter of fact, we'll probably be expanding in the land registry field because new areas are being designed as judicial districts by the Attorney General. Where they do have a court house or facilities when there's a new judicial district carved out we will go in with the registry office.

This new system makes that very practical and enables us to use almost all of the buildings we're now in without having to go to the taxpayer and to build new buildings, et cetera.

Mrs. Campbell: How many have been closed under the former minister?

Hon. Mr. Drea: There have been no registry offices closed. None were closed.

Mrs. Campbell: They didn't succeed. I guess I didn't follow it through. I thought there certainly were several that were slated for closing.

Mr. Breithaupt: That was in the Durham situation.

Hon. Mr. Drea: Not with me.

Mrs. Campbell: Not with you, no

Mr. Lawlor: Where was it?

Hon. Mr. Drea: Durham is open.

Mr. Breithaupt: Durham was one.

Mr. M. N. Davison: There were originally —Mrs. Campbell, I think you're right—17 or 22.

Mr. Ziemba: All the ones in the Liberal ridings.

Mr. M. N. Davison: On a hit list.

Hon. Mr. Drea: No, there weren't any on a hit list. There was no hit list.

Mr. M. N. Davison: I have a copy of it.

Hon. Mr. Drea: You have a copy of it which was submitted by the law profession, not by the government. They just equated everything with Durham.

I will tell you there's not one registry office closed. I said it many times; there will not be any registry offices closed. I just said I'm expanding. Period.

Mrs. Campbell: I'm glad to hear that you closed them before you started expanding them. That's a help in the right direction.

Hon. Mr. Drea: No. I think it was remarkable the way that one was handled. It's true, I didn't make the announcement. Mr. McKessock made the announcement. I handed him the thing and he made it. Maybe that's my fault. Maybe I should have read it. They didn't regard it as official coming from Mr. McKessock, but in view of the fact it was his riding and the registry office there was of concern, he read it out.

Mr. Ziemba: I'd rather see you closing the registry offices and opening the schools.

Mr. Chairman: That's completely out of order. Please ignore the remark. Carry on.

Hon. Mr. Drea: As I say, the technical concepts of Polaris I don't really think will arise in the course of these estimates; I'd be very glad to discuss it but we've sent full details over to both caucuses.

Mr. M. N. Davison: The only possible difficulty is that word has it the lawyers think it's a good idea.

Mrs. Campbell: So it must be a bad one.

Mr. Lawlor: We're heard this for many many years—the switchover from the registry system into land titles and computerization. You get the last documents on title lifted right onto the plane. That's what Frank, I'm sure, is talking about, but it seems to me that you're not making any great progress. In Toronto, which I'm particularly acquainted with, the sheer volume of condominiums and co-operative housing developments—a special office set up—the inundation in that section alone keeps that land titles office totally occupied without making any incursions upon the office upstairs. The thing goes on.

I think we all agree it's quite ridiculous at this stage. With the vast sums of money you bring in—one can't close a deal these days without paying out $400 in tax. It's

fantastic. They make more on a single deal in tax than a lawyer can make by putting the thing through. That's what my beef is.

Hon. Mr. Drea: If you want to discuss it, I think we have—

Mr. Chairman: I'd prefer that it be discussed another day, really. Carry on.

Hon. Mr. Drea: Just as a passing shot, Mr. Lawlor, I think you will find that package of amendments, while they look like housekeeping and they will not excite anybody going through the House, really address themselves to your problem. They cut down the work to an absolute minimum in land titles.

Mr. Breithaupt: When will those bills be—are they ready?

Hon. Mr. Drea: Probably some time next week, but there's a minor change in one of them. I'll be sending them over to both caucuses in advance. As a matter of fact, I would welcome the opportunity outside of these estimates to discuss those with you. I would like them to go through early in the session because I want the Polaris project, which I finally got the money for, to proceed.

Mr. Breithaupt: Early in the spring session, do you mean, or now?

Hon. Mr. Drea: No, right now. I want to pass them in this session.

Mr. M. N. Davison: They were originally scheduled to be introduced tomorrow, I guess, and to be dealt with next Tuesday. We just had to postpone it a week or two.

Hon. Mr. Drea: Yes, that's right. There are no problems—just the usual ones.

Since you have raised the matter of the registrar general, I think it's another major step forward there. We will have greater productivity and efficiency in the automation of births, deaths, marriages, divorces and stillbirths. In addition to providing better service to the public it will be cost-effective. We think, after all the computerization is done giving you almost instant access to documents, that more and more people will benefit—particularly in obtaining birth certificates.

Mr. M. N. Davison: Especially if it is a hyphenated surname.

Hon. Mr. Drea: No, not there. There are no babies being born and yet demand for birth certificates—

Mrs. Campbell: Who says?

Hon. Mr. Drea: Well, not many—yet we have an ever-increasing volume of demand for birth certificates. We would be at the stage, if we weren't doing this step, where you would have to wait five, six or seven weeks.

And there are sudden intrusions upon the service. Last year when the federal government decided to give a rebate on the mother's allowance program that was just great, but you had to go get a social insurance number before you could get your cheque. To get a social insurance number you had to get a birth certificate. There were only 28 days to do it. I will tell you, the registry people really deserve commendation. With all that jam and everything else, not one single person failed to qualify for that rebate. And those people certainly needed it. That's typical of what's coming.

Also, in future years, with computer terminals and so forth, we would hope that once this is in you could obtain your birth certificate in your home town. There are very few requests for marriage certificates. The death certificate is usually tied up with the estate so there's not that much of a problem. But the birth certificate—boys' hockey leagues, baseball leagues, passports—

Mr. Breithaupt: That would certainly be a convenience where it was possible for a terminal to be available in the local registry office. It would be a great advantage to many for many reasons.

Hon. Mr. Drea: Incidentally, all of these costs for automation or systems, or what have you, are not new funding by the government; these are all being achieved out of savings by the ministry. So we are not dependent on restraint.

Mr. Breithaupt: And you will attempt to recover the costs of the documentation?

Hon. Mr. Drea: Oh, yes. We've raised the price of birth certificates. We're now just about even. We went up to $5. It's a tremendous cost now; you try to get cost recovery. With this, we'll keep the cost down. I'd hate to see the day when you would have to spend an awful lot of money for a birth certificate.

As I say, we've become very conscious of birth certificates in this country during the last three years. Everybody wants one; they're sending for them by mail et cetera.

Mrs. Campbell: We have to identify ourselves to everybody.

Hon. Mr. Drea: In any event, before we start, I would also like to thank the critics and the other members of the Legislature who have from time to time brought things to my attention. The ministry tries to keep its eyes open all the time, but it's a very difficult thing to do on the scope we have.

We do appreciate the ongoing concerns that are raised by the members, and particularly by the critics. We don't agree with them all the time, but we'd certainly like you to keep them coming in, because quite often rather large things develop from some obscure little piece of information. We do appreciate it.

Mrs. Campbell: Mr. Chairman, on the registrar general: Will there be room in this schedule for any of the philosophical discussions that arose from the Ombudsman's recommendation? I trust that the minister will be addressing that. We may address it together when the time comes. Mr. Lawlor is chairman.

Hon. Mr. Drea: I don't know. It hasn't been drawn, Mrs. Campbell; maybe you could help me out.

Mrs. Campbell: I think this is not the time. We should send you along a copy of the Ombudsman's report relating to the registrar general.

Hon. Mr. Drea: Is it published yet?

Mrs. Campbell: Oh, yes. About five reports before this one.

Mr. Chairman: Thank you, Mr. Minister, for an interesting statement; it's certainly a very diversified ministry. I think it would be useful for members of the committee to have a copy of that statement during the estimates; so I'm going to ask that you supply a copy to the clerk, and we'll have copies made for members of the committee.

Hon. Mr. Drea: Do you want to do it in the instant Hansard? There are some things in there I didn't mention for the sake of time, Mr. Chairman.

Mr. Chairman: Those things that are in there that you didn't mention for the sake of time, I'm sure you'd want to make them known to members of the committee. If it meets with your approval—

Hon. Mr. Drea: Oh, sure. I just didn't want somebody to think there were some things that were floating out to them that I hadn't bothered to say. It was simply a matter of time.

Mr. Chairman: Fine. We appreciate that. I will have that ready for you as soon as possible.

The leadoff for the Liberal Party, Mr. Breithaupt.

Mr. Breithaupt: Mr. Minister, this is the first real opportunity we've had in recent years to fully review the operations of the Ministry of Consumer and Commercial Relations. In the 20 hours that is available to us, I appreciate that the members of the committee have accepted a schedule which it's to be hoped will allow not only our colleagues to be present when there are various items of particular interest to them, but also the staff of the ministry to know at least when themes are most likely to come forward without having to concern themselves with spending unnecessary time away from their other tasks.

I do feel, Mr. Minister, that I should first of all comment on the suggestions you have made with respect to three particular changes that are flowing from the reports of the select committee on company law, of which I have the honour to be the chairman.

The matter of compulsory automobile insurance, of course, has been of great interest to us, and in our reports we have not only called for that item, but also made some suggestions which I hope will be useful as to the enforcement of compulsory auto insurance when that comes forward.

We have had the suggestions made from a variety of sources with respect to fair rates for good drivers, and the involvement that you have given in this area, and the commitment the government has made to ensure that good drivers receive the full benefit of the kind of rates, they should have is something which is indeed pleasing to those of us who have spent a lot of time looking at the whole subject of automobile insurance.

[11:15]

The second item you have referred to with respect to self-regulation is one in which we're also interested as it affects various segments of the insurance industry. I recall that earlier this year you made a commitment with respect to the self-regulation of insurance agents. No doubt other areas within the insurance industry, be they adjusters or brokers or the various component parts of the company organizations themselves, will eventually be able to deal with self-regulation, with not only the maintenance of standards but also with some of the self-disciplinary factors that are the proper responsibility of a group that is developing a high standard of service within the province.

The third insurance item you commented upon was that of the farm mutual organizations. We also in the select committee were mindful of the fact that farm mutual companies are losing the opportunity of dealing with the businesses or various other developments in the villages and towns that they otherwise are serving. The tradition has been, of course, for insurance to be available only to ancillary buildings or involvements of persons who already had their farm property in fact insured. We agree with you entirely that it's time to move from that

step that has been the rule over these past hundred years and to move now towards a stronger opportunity for farm mutuals to develop within Ontario.

You mentioned the reinsurance operation which we observed upon in our report. It does appear that not only is the management of the farm mutual companies maturing, but also the reinsurance factor is such that the variety of risks that will be taken on in the classes that can be competed in, I think will be done in an intelligent way and one that is going to benefit the capital formation that you've referred to.

We all recognize that the matter of capital formation for mutual companies is a slower process and one that can only depend upon the results within the companies and the underwriting profit, as well as the investment profit, which will ordinarily occur in a well-run farm mutual organization. So, while that progress is slower and while many of the other companies that have got to the cash mutual stage of a million dollars in assets have developed from that same pattern, there are many companies of a middling size which can and should be encouraged to develop. The involvement that the ministry has taken, and I would suggest the involvement that Murray Thompson, the superintendent of insurance, has taken, has been a most positive and useful one.

With respect to compulsory auto insurance, with respect to self-regulation and with respect to your comments in the farm mutual area, I would take this opportunity to thank you on behalf of the select committee for recognizing, at least to some extent, the work and some of the suggestions which we have made, which I hope will encourage you to proceed in those three areas with due dispatch.

Since the various items of each vote will be dealt with on a certain day from time to time, I'm not going to refer particularly at this time to all the variety of items which make up the ministry. I should, first of all, comment on the offer of the deputy minister, Mr. Crosbie, to spend some time with me on the variety of estimates. I regret that because of the difficulties in matching up the time available with other commitments I was not able to take advantage of his offer, but I do thank him for having made that offer. Perhaps another time we will be able to get together a little earlier than the actual opening of the estimates.

As I've said, each of the votes deals with a particular subject or a particular field of endeavour, and I think my remarks would be of more use as we deal with each of those separate items rather than going through a full review of the entire ministry now.

I do thank the committee for accepting the suggestion made by Mr. Davison. I know, in the interest of the chairman personally, that we do have the opportunity to look into the Condominium Ontario situation during the time we would be spending on vote 1505, on property rights, and additionally on the next day, when the registrar general's office may allow us some added time if it is required to deal with that circumstance.

It is, of course, quite clear from the hearings that led to the new condominium legislation that this form of lifestyle, this development of housing standards within the province, is something new and something that is going to go through a variety of growing pains before its benefits and responsibilities are fully understood, not only by the general public but indeed also by many who are living in condominiums or involved in building and managing them. So we are going to have that opportunity, which I think will be of particular interest to a number of members in whose constituencies condominium developments have been somewhat greater than in other regions.

There is a general theme I would like to develop with respect to this first vote. It deals with an overriding concern I have for consumer protection generally within the province. I think recent developments have shown there is some acknowledgment of a weakening position of the individual consumer in the marketplace. We have seen a variety of factors, such as the concentration and growth in the power of vendors, the diversity of products and firms, mass advertising and a lack of consumer knowledge about the goods that are purchased.

This, of course, has led to the enactment of some consumer protection laws and to the establishment of some consumer education programs. We have seen the setting of standards and regulations in a number of areas, but the point is not whether the present government has undertaken just to do these things, but whether in proceeding in this direction the job is being done properly and thoroughly.

I think, for example, of the various persons and organizations that have appeared recently before the food inquiry that is proceeding in another place. The comments that have been made with respect to market concentration, to the variety of products, and to the payments from one side to another of various charges and fees, must surely be bewildering to the average consumer. A consumer going into one of the chain stores

might presume that things on sale at a special price, or a great variety of products, are being brought to him or her at the best prices available. But we recognize that is not always so.

How the food inquiry will resolve those particular problems is yet to be seen, but I think we do share the concerns that have been raised. All of us, not only as members of this committee and of the Legislature but also as consumers ourselves, recognize that the opportunities for consumer information are certainly a priority we would all like to see stressed and one in which we all have an obligation.

One of the most important aspects of any law is the extent to which it is known by the public affected by it. The ministry in its annual report speaks of bringing the government to the people. But do we really have any indication of what kind and standard of job is being accomplished? I suggest it is not enough to say the government accepts calls when they ring the consumer information centre, or that certain speakers are provided for consumer education workshops.

I would like to hear from the minister as to how many speaking engagements have been undertaken and the variety of groups that have been addressed. I would like to know what sort of mailing lists are available so that consumer-related pamphlets do not all wind up only in certain government locations but are widely spread through senior citizen centres, consumer information bureaus or a variety of active church groups or other interested organizations so that the individuals who might be able to receive and benefit from that kind of information have as much opportunity as is practicable to do so.

Indeed, the locations of the various constituency offices of the members could be sources of information, not only for the consumers who may visit the various offices, but also as a source of information for consumer groups within the areas, where copies of up-to-date information are on display or available to consumers on visiting the constituency offices we all have.

In my own constituency of Kitchener, the social planning council is an example of an information bureau which is providing a variety of information and doing many other tasks which perhaps I as a member would be called upon to do if that resource was not available. Certainly, the encouragement and operation of these kinds of organizations are worthwhile if the consumer side of the ministry is to get the balanced priority and the commercial side is not always to have the overwhelming interest of the component parts of the ministry, when there are so many mechanical things the ministry has to do in a great variety of themes.

It is important to find out if the consumer approach to information is having any real impact. A study released in August 1978 entitled, A Survey of Consumer Issues among the People of Ontario, indicated that when looking for sources of information on consumer rights a mere 20 per cent of those surveyed felt they would contact the government of Ontario. Some 43 per cent thought they would go to the Better Business Bureau and 16 per cent didn't really know where they might go for information.

The same study indicated that, when faced with a serious problem, 72 per cent of those surveyed went to the dealer, retailer or store where the item was bought to attempt to sort out the situation. Some 66 per cent indicated that in most cases they thought it was somewhat useless to complain to the government because it couldn't do anything about the problem.

I would appreciate hearing from the minister if there is any particular statistical breakdown of the persons who do complain to the consumer services bureau. If there are some statistics that could identify the socio-economic, educational, language or cultural backgrounds, then we might know where we should be moving to attempt to help persons in certain categories. I am not one that likes to categorize people either by their income or by any other aspect we have to do on occasion, but it could be useful to encourage a greater variety of knowledge in certain segments of the marketplace, if we were able to have some breakdown of the kinds of complaints and their resolution.

The minister has commented on the approach that has been taken to bring some consumer information to those persons who may have some retardation but who are going to be living active and useful lives within the community. That is a good theme. It is certainly one which encourages the purchase of serviceable and useful items and good consumer relationships in an area where it may be very difficult to communicate in some cases. This is the kind of theme I believe the ministry should be commended for. I would welcome it, as it perhaps would zero in on certain other areas of cultural or economic difference, which the minister has indicated he would look into.

I am wondering if the ministry is fully knowledgeable of the effect of the use of media on the kinds of consumer complaints

or consumer information for which it is responsible.

[11:30]

In a study prepared for the planning and policy branch of the Saskatchewan Consumer Affairs ministry in July 1978, there were indications that television was the most effective form of information dissemination, followed by the newspaper and then by radio. I don't know if that same pattern would exist in Ontario. I recognize that the cost of television advertising is very high, but if there are certain studies which give us a balance of the effect of the use of these varieties of presentations, then it may well be that the price of a television ad, even though that's somewhat higher, is every bit as useful as the smaller price, but larger perhaps in total, of printing a certain pamphlet or dealing with a problem in a certain other way.

The spending allocations in these areas, I believe, have to be carefully reviewed. I hope the minister will be able to discuss at the appropriate time how these varieties of spending on consumer involvement and in dealing with the kinds of business practices, such as the automobile repair that he has referred to, and how those spending estimates for communications values can be best sorted out.

Turning to the statistics of the ministry itself, we look at the numbers of complaints as set out in the annual report for 1978 on page 14 and for 1979 on page 13. There were approximately 10,000 in 1977, 17,000 last year, and 15,914 this year. The investigations of them can be compared, as well as the numbers of charges laid. I'd be interested in hearing from the minister as to how the decline in both the investigations and in the charges laid appears to square with the desire to have a greater involvement with the resolution of consumer difficulties.

Particularly as you look to the automobile theme, with odometers or with repairs, or as you look to some of the other consumer complaints that do come forward from time to time, it is somewhat curious that a decline in both the matters of investigation and in the charges laid, as they appear to be reported in the present report, has resulted. Perhaps it's important to look at the weight that is given to the various investigations and the evaluation with respect to the validity and importance of complaints as they come before the minister.

Certainly, in the 1978 report, there was a clear desire to compare those statistics and the ones of the previous year on a purely numerical basis, and we have graphs provided because it obviously shows that 1978 was larger than 1977. We don't have those same graphs in 1979, but that's understandable perhaps because the graphs would not show the kind of progress and increase that any ministry of course would like to refer to.

Hon. Mr. Drea: Mr. Breithaupt, the reason is that the graphs do not show the significance of the investigation.

Mr. Breithaupt: That's good to hear.

Hon. Mr. Drea: Very simply, the reason for the decline in active investigations is that they are much more sophisticated and much longer investigations. We've passed the point of a simple one-day investigation, with either a yes or no result.

Mr. Breithaupt: Do you then feel that those earlier one-day investigations have sorted out a lot of the basic complaints—

Hon. Mr. Drea: Yes.

Mr. Breithaupt: —which are not the recurring ones, and that it's the lengthier, more fraudulent kinds that are taking more time?

Hon. Mr. Drea: We're on plateaus two and three. The straight-on scam is gone. Nobody does it any more, except in very isolated cases. It's now a pattern of operations, which is up to the second or the third or the fourth plateau. Some of the earlier investigations were relatively simple. You could put out an order or a proposal—

Mr. Breithaupt: In quite basic areas.

Hon. Mr. Drea: —in quite basic areas. Now you're into criminal fraud. In many of our investigations, we proceeded to a point where there is a determination made. There will be a simultaneous proceeding, civilly as well as asking the crown to lay information. Many of these cases are extremely complex, but it's not a lessening of effort. The work hours are longer because they're not straight-outs anymore. They're very complicated.

Mr. Breithaupt: I appreciate those comments.

Hon. Mr. Drea: A graph just shows you numbers. It can't show you in three-dimensional form.

Mr. Breithaupt: Then there is no merit in continuing with a graph if the numbers shown cannot really be comparable to the earlier themes which were being investigated.

Hon. Mr. Drea: I suppose what we could do would be to give you a graph on the dollar volume, and do it in constant dollars. You would see that the dollar buying is way up there.

Mr. Breithaupt: Whatever you think will be meaningful—

Hon. Mr. Drea: What I'm saying is, before when you had the numbers, it was at this level—and let's just disregard inflation—it was at this level. Okay, well, now they are so sophisticated that they're appealing to a much more limited clientele, and therefore the individual loss, or the amount of money that's involved, is much higher

Mr. Breithaupt: I appreciate that. There are just two other themes that I would like to refer to briefly, Mr. Minister. The first deals with the publication of a variety of attitudes within the province of Quebec that have had a shift from the "consumer beware" approach, almost to the "manufacturer beware" approach.

The province of Quebec has involved itself directly, using test results from a variety of sources, in publicizing particular products; in giving almost a consumer report comparison of a variety of items, whether it's artificial fruit drinks or detergents, this sort of thing. I'm wondering if your ministry intends to get into that kind of immediate product comparison, almost giving the Good Housekeeping seal of approval to a variety of products, or whether you feel that other controls within the province allow for consumer decision to be made quite satisfactorily on the basis of the circumstances as they now exist.

I recognize, of course, that product testing, particularly under electrical safety standards and areas such as the insurance underwriters laboratories, do have some particular value in certain themes within the province, in the setting of insurance or in the setting of other particular consumer standards. Those results don't get as much publicity, I suppose, as they are perhaps worthy of receiving. But now we find that we have at least one province, Quebec, being bold enough to hire independent research laboratories and giving some greater detail of information to the average consumer. I don't know what the result has been, since those reports are only making an impact on the market place at the present time.

Have you observed or monitored the kinds of reports that are coming out? Do you believe that they're having an effect in the Quebec marketplace to benefit the consumer? If so, do you feel that there is an involvement that Ontario should comment upon, or perhaps involve itself with, in that kind of theme?

Hon. Mr. Drea: Do you want me to answer?

Mr. Chairman: I have suggested to the minister that since the NDP critic may have similar concerns in some of the matters you're bringing up—

Mr. Breithaupt: Oh, fine.

Mr. Chairman: —that it might be easier to hear the comments of both of the opposition critics, and then the minister can address himself to it.

Mr. Breithaupt: That's fine, Mr. Chairman. That was only one theme that I would ask the minister to respond to briefly. The second one, and I will complete my remarks on this point, is the development of the electronic funds transfer study project.

We're of course all interested in the big brother approach that EFT may be bringing into our lives, almost on an increasing daily basis. The report that had come out in December 1978 was a joint one from the Minister of Transportation and Communications, from the Attorney General and, of course, from the Minister of Consumer and Commercial Relations. That has been a study paper which I presume has brought many comments from a variety of sources.

I would hope the minister would be able, at this point, to comment during the estimates on what progress has developed in this theme; whether public response has been thorough, or whether there is going to be further opportunity to discuss not only this topic that will come forward if there is legislation—but also indeed in any other particular public forum.

I would be interested to know just how the report was distributed, the number of persons who have received it and, when the time comes, what responses have been made and what the government's view of this theme of electronic funds transfer as it develops over the next few years is going to be. If the minister could look into those two particular areas and perhaps respond at his convenience, I would appreciate having his comments on it.

That really completes my opening remarks, Mr. Chairman.

Hon. Mr. Drea: We are not the lead ministry and I will have to obtain that elsewhere. I can tell you that there has been a major conference on it and that at the Dominion-provincial ministers' conference the EDT as well as the electronic checkout or the UPC was given a very, very high priority by both the federal government and the provinces.

Mr. Breithaupt: Who is considered the lead ministry in this?

Hon. Mr. Drea: It's not us. I think it's the Attorney General. I know there's a co-ordinating secretary from Intergovernmental Affairs.

I am prepared to talk on it—I have already expressed my views on it many times—but the thrust of that really was in the Attorney General's area and in the MTC area.

Mr. Breithaupt: Fine. We can deal with that in those areas.

Hon. Mr. Drea: Yes, but notwithstanding that, we brought forward a position paper in September in Newfoundland and we will bring you back the communique.

Mr. Breithaupt: I guess I didn't receive that. I wasn't aware of it.

Hon. Mr. Drea: It didn't receive any notoriety, but I will tell you that both electronic transfers as well as the electronic checkout are now very major priority areas right across. That was just in our area, because the difficulty for other ministers was exactly—you know, we weren't the lead ministry. It was almost all out in the hands of the Attorney General but I think it's particularly significant in that Mr. Lawrence, the federal minister, is also the Solicitor General. There's a relationship in there but I will get you all the information.

Mr. Breithaupt: I would appreciate receiving that information that you presented at that conference in Newfoundland, if that's possible.

Hon. Mr. Drea: Yes. I actually didn't present very much because I was more concerned with the electronic checkout, which we will get to, but I tied that in. A great deal of the thrust on this comes from Mr. Mason, the deputy minister in Manitoba, who has been quite interested for years, and Mr. Robbins, the minister from Saskatchewan, who is very interested in this, and I will get it all.

Mr. Breithaupt: Thank you very much, Mr. Minister.

Hon. Mr. Drea: I don't want to mislead you. I didn't present anything new other than that report on the electronic transfer. I presented some things on the electronic checkout, but it wasn't very much.

Could I do one thing before you go any further? One of the things we also did in Newfoundland, and I apologize for not doing it earlier, was, I think, we broke some new ground there. Because Mr. Lawrence had asked, for rather obvious reasons, as a new minister in a new government, for a general discussion of priorities, we asked the CAC in Ontario to give us their priorities which I would take in there, as well as the CMA, so that we would not only just bring in what the minister in Ontario felt were priorities in the area but a significantly broadened base.

I will leave both of these with the chairman. They are very wide ranging. We didn't put any restrictions on it. Some of the things that they are talking about from either side are purely federal in nature but I thought it might be interesting to the committee to see what the people directly in the marketplace—the CAC, the Ontario branch, and the CMA—as much as you can get a group in the commercial marketplace, looked on as legislative and other priorities. They both agreed prior to that conference that the contents could be made public. You might find it very interesting.

[11:45]

Mr. Chairman: Thank you, Mr. Minister. Before moving on to the NDP leadoff statement, I would mention to members of the committee, in case somebody is waiting to try and get in a particular item under this first vote, that on each of the subsequent votes, with the pleasure of the committee, I will allow a grouping of the items, rather than dealing with them item by item, since there is great overlapping in items.

Therefore, if someone feels compelled to try and get an item in under the first vote, rather than dealing with it later, because it covers a number of items in a subsequent vote, you may rest assured that you will get an opportunity at a later time.

I understand from Mr. Davison that Mr. Swart will be the leadoff for the NDP.

Mr. Swart: Mr. Chairman, perhaps I should explain immediately why I am taking the leadoff in these estimates. It was a decision of the leader of my party last spring that there should be a new position created in our caucus, that of the consumer price protection critic, because of the dramatic increases in prices and because of the damage we feel is resulting to our society and to many people in it. I was given that position. Therefore, I am leading off today and I will be dealing with that theme.

Before I get into that theme, I would like to commend the minister—a personal commendation, I guess—for the dynamic way in which he has handled his ministry. I think he has been tough, but also fair, in administering the laws he has to administer.

Hon. Mr. Drea: On behalf of the chairman, we once had to go through this in the justice committee. Go ahead, but we don't want to get into—

Mr. Swart: I've just come to the "but."

Mr. M. N. Davison: Mr. Swart and I don't completely agree on this, anyway.

Hon. Mr. Drea: Mr. Philip once had a

very frustrating morning in the justice committee.

Mr. Swart: I wanted to say we think much of the legislation does not go far enough or does not deal adequately with the problems. Certainly on the question of intervention in the pricing mechanism in our society we are in total disagreement with the minister's hands-off policies.

Mr. Chairman, for your information—perhaps you feel I am getting out of order—I will be endeavouring to show the need for the ministry administering some price intervention, to show that constitutionally and practically there is a lot this ministry and this government can do and ought to do, and to show ways of doing it. I want to say that all through these estimates, although we will be dealing with the various operations of your ministry, we will be coming back to the theme of the need to intervene in selective occasions in the pricing field.

We are convinced, Mr. Chairman and Mr. Minister, that the degree of price escalation of many goods has been unnecessary; goods are priced unreasonably high. We are convinced that provincial and federal governments must move in to protect the consumer, as they give protection to the consumer in many other areas.

In short, consumer price protection must be a new and major thrust of your ministry. Your absolute hands-off attitude must be replaced with intervention, where necessary, to protect the consumer. As you administer a rent review program for consumers of rental housing, you should administer some sort of price protection program for consumers of commodities.

I will try to document briefly the three allegations I have made: first, that inflation is damaging; second, that many of the price hikes we have had have been unnecessary; and third, your ministry has not properly carried out its responsibility, but has taken this absolute hands-off policy with regard to the dramatic increases in prices.

First, I think all of us here are likely to recognize the damage inflation is doing to a great many people in this province and in this nation. I looked up the figures in Statistics Canada and found that in the last two years average employment income had increased by 15.7 per cent, but the consumer price index had gone up 18.6 per cent. I believe you will find those figures are correct. These figures are from the end of last month; they are up to date.

I went back three years and found the average employment income had gone up 26.1 per cent and the consumer price index had gone up 28.4 per cent. I should point out, in fact, in Ontario those wages had increased slightly less than the Canadian average.

The average employee is being hurt; his standard of living has dropped. The figure is small perhaps, but the average standard of living has dropped in the last three years, in the last two years and in the last year. In fact, I think in the last year, it has just about stayed level but certainly, in the last two and three years it has dropped.

This is particularly harmful to people on lower incomes. Again, I am sure, Mr. Minister, you recognize this. The minimum wage in this province, for instance, has gone up only 13 per cent in the last three years. That minimum wage doesn't come under your jurisdiction, but if you relate that to prices you must realize—and there are a great many people on the minimum wage—how it is hurting those people.

Perhaps it is even more harmful to those on pensions. Family benefits and disability pensions have gone up 15 per cent in the last three years. That comes directly from the ministry here. Of course, even that doesn't tell the whole story. Workmen's Compensation Board benefits have gone up slightly more, but even they have not kept pace with the increase in the cost of living.

Those on the lower incomes, as we all recognize, spend a much larger percentage of their income on groceries than do those on higher incomes. Statistics Canada shows those on a $7,000 income spend 25 per cent of their income on food, while those on a $25,000 income spend only 14 per cent on food. As we all know, food has gone up more rapidly than many other commodities; it has gone up something like 14 per cent in the last year, according to Statistics Canada.

Hon. Mr. Drea: Are you talking from January?

Mr. Swart: I am talking to the end of this last month.

Hon. Mr. Drea: You are talking September to September then.

Mr. Swart: Yes; I believe it has gone up 14.1 or 14.2 per cent.

Hon. Mr. Drea: Is that the consumer price index?

Mr. Swart: Yes.

I repeat, the price escalation is cutting the standard of living of employees generally, but it is, of course, hurting most those on the lower incomes. I am sure everyone in this room would agree this sort of thing just can't continue in a humane society—that those on

the lower end of the income scale, whether employed or unemployed, are having a lesser percentage of the total national income.

There is a second damage almost as great as this damage to the individuals; it is the damage to employment. As prices go up, there is reduced effective purchasing power and employees now have effectively less to spend than they had three years ago. In the end, it is consumer purchases which create employment.

Of course, I realize there has to be some sort of balance in setting prices, there has to be capital for investment and prices at a level which enhances sales. When the ratio is off balance in favour of the corporate profits, as it is now, and when it is largely multinationals which are sending many of those profits outside of this nation, our economy is getting a double whammy by the high consumer prices. High bank interest rates—we know what is happening to them—are a typical example of prices reducing effective consumer purchasing power.

On the other hand, the consumer protection in rent review, which you administer, saved those consumers of rental accommodation, according to your own figures, at least $3 million in the hearing which took place during the last fiscal year. Obviously, there would have been other increases. The very fact it was there prevented many increases, but it saved $3 million to the consumers. Obviously, that has helped to supplement their purchasing power.

The second point I want to make is that many of the price hikes have been unnecessary. I think the greatest proof of this is the overwhelming profit that has been made in this country by the corporations of late. Again, these figures are readily available through Stats Canada. The net income of corporations in all industries in Canada went up something like 25.6 per cent last year. In the first half of this year, they went up another 44 per cent. I say to you there's simply no justification for increasing the domestic prices to make these kinds of profits.

We've already pointed out the wages haven't risen that rapidly. Energy costs, of course, have increased but not greatly yet. They're going to go up a lot more.

Thirdly, we are, or we could be, a largely self-sufficient nation and the dollar devaluation should have little effect on our price structure. Something like 14 per cent of commodities come in from other countries. That leaves 86 per cent of our commodities that we're now producing ourselves and, of course, we could up that with some determination. Obviously, we can't replace all imports.

Hon. Mr. Drea: Are you talking about all kinds of commodities, not food?

Mr. Swart: I'm talking about all kinds of commodities.

I wanted to give some examples of these increased profits. The forest products industry—making lumber, toilet tissue and newsprint—had 102 per cent increase in profits in 1978. They went up another 96.6 per cent in the first half of this year. As the minister points out to me in a letter, the profits in the two years previous to that, at least the year further back, had been relatively low to what they had been in, I believe you said, 1975. It was actually 1974 when they were the highest, not 1975.

If we look back substantially behind both of those times, we find out there was a general substantial increase in profits last year. Of course, if this year's continue at the rate they are at the present time, they will be close to 35 per cent above any previous year.

Base metals were up 44 per cent in 1978; and, for the first half of 1979, up 169 per cent. Merchandising was up 21 per cent in 1978; and for 1979, up 58 per cent. Chemicals—we produce a lot of those in Ontario—in 1978 the profits were up 106 per cent and so far in 1979 are up another 17 per cent.

I point out that by and large, these increases in prices, which have resulted in increased profits have nothing to do with the cost of production here. They have a lot to do with the lower Canadian dollar and—I say it straight—examples of using that to profiteer. I know some of this additional profit is being made on sales to foreign markets. I have no objection to getting the market value in other countries, but even that additional profit is not the large share of these additional profits which are being made in Canada. Most of it is being extracted from the Canadian consumer.

These excessive profits, due to excessive prices—that's where they have to come from—are permitted, almost lauded, by your government at a time when we're all told there must be restraint. The quality of health and education services are being cut back. It is said by the government, "We just can't afford them. We can't afford new French high schools," and the citizens are being told they must tighten their belts in every way. The injustice and the absurdity of excessive pricing in these times is recognized not just by us in this party but by the many leaders in our society who have no asso-

ciation with the democratic socialist movement.

[12:00]

I would like to point out to you Mr. Minister, that there was an article, which you may have seen, by a very respected business and consumer analyst, Vincent Egan, whom you may know.

Hon. Mr. Drea: I used to work with him.

Mr. Swart: He had an article in the Thomson chain of papers.

Mr. M. N. Davison: A socialist rag.

Mr. Swart: He made these kinds of comments: "The growth of Canadian corporate profits is continuing almost to the point of embarrassment. By now we're all familiar with the reasons given by business to explain why profits aren't what they seem to be, but the rationalizations may be starting to wear a bit thin." Then he went on and listed reasons they gave for the increase in prices.

He said: "Having granted all that, one still must wonder whether 1979 profit levels are contributing to inflation and, what is more relevant perhaps, whether business is handling properly its new high level of profitability. It would, for example, be more reassuring to know that business was investing more capital in expansion and growth to create more jobs, improve productivity and generate future profit. But a survey of capital spending intentions shows that new investment in plant and equipment will probably rise this year to about the same rate as inflation. In other words, true growth is negligible."

Then he went on and said how there should be more growth. I'll read the last paragraph: "Finally, pardon the heresy, business could re-examine its pricing policies that are feeding inflation as well as creating the big profit increases." I suggest that he has hit the nail right on the head because by any measurement, whether it's imperial or metric, many prices in our society are just simply too high.

The third point I want to make is that the government of this province has totally opted out of any consumer price protection whatsoever. In fact, it's become the apologist for the corporations and their spokesman in justifying excessive prices. If there's one single instance where this minister or his predecessor, as a minister of the same portfolio, have told a company or a group of companies that their prices are excessive and they must roll them back, I hope he'll name it in his reply to me.

The evidence on the other side, I suggest, is overwhelming. I want to take the issue of coffee. The minister would probably expect me to take that. In October 1977 this minister, before he was in this ministry, said coffee companies were profiteering—

Hon. Mr. Drea: Not true.

Mr. Swart: I took it from Hansard.

Hon. Mr. Drea: You took it from Hansard. I did not say the coffee companies in Canada were profiteering, and you know that well. Keep it accurate. Read what I said.

Mr. Swart: I shall. During further estimates I shall quote to you from Hansard.

Hon. Mr. Drea: Read it accurately, if you're capable of it.

Mr. Swart: He said they were guilty of a ripoff. I'm capable of it and I'll read Hansard to you at a later point.

Hon. Mr. Drea: You'd better.

Mr. Swart: On December 19, 1978—we kept this issue up—after he was in this portfolio, he said, "Based upon the fact that Canadian coffee grinders or processers have to buy it at the fixed price, in New York, in American dollars, I'm very much surprised today, honestly, that the price of coffee is as low as it is in Ontario." A complete turnabout on this issue.

When he made those comments in October 1977 the average green bean price—and you can check into this—going into that was about $2.25 a pound. It was retailing at $4.49. That would give you a $2.50 differential.

In December 1978 that green bean price had come down to $1.50 a pound, the average going into it at that time. I'll get these retail prices for you. They're official prices. It was $3.79.

Hon. Mr. Drea: I think I told you where to get them.

Mr. Swart: I had them long before that.

The retail price was $3.79. That is a differential of $2.29. The price differential of purchasing the beans was just 27 cents because of the devaluation in the dollar during that period of time. If you check that you'll find that this is correct. There was in fact a 27-cent differential. The differential between the green bean price and the final consumer's price was only some 15 cents less at that time than it was at the time you condemned the coffee company. The significant thing is that that $2 differential, or a bit more than $2, had only been 75 to 85 cents for two years prior to the time coffee went up. There was still the same ripoff you complained about in December

1978 as there was in October 1979, but your attitude had entirely changed.

Then there was a comment by the minister, according to the Toronto Star on June 26. I had written to him again complaining about the increase in the price of coffee because I had had an internal document that General Foods had a three-month supply of coffee which was used just as cheaply and they hit up the prices. He made this comment "Even in the days of anti-inflation, we couldn't control the price of perishable foods." That was the first time I had realized that coffee was a perishable food in the sense that we consider perishable foods in society. Coffee can be kept in cans, as you well know, for months. Even green beans can be kept for months and months. It was a pretty weak excuse.

Then, with regard to the internal document, according to the paper, he said—and if he denies it, I'll take his word for it—"If Swart has got hold of an internal document, I don't want to get involved in that argument. You had better ask General Foods about it."

Hon. Mr. Drea: About how you got it.

Mr. Swart: It seems to me I sent a copy of that document—

Hon. Mr. Drea: Mr. Swart, I don't know what you do in the middle of the night. I didn't want to get involved.

Mr. Swart: I sent a copy of that document to the minister so that he would have it.

Hon. Mr. Drea: Mr. Swart, for the sake of the record—and I don't want to interrupt any more—you sent me that document five days after you gave it to the media.

Mr. Swart: It wasn't sent five days after it was given to the media.

Hon. Mr. Drea: The post office must hate you because your letters take the longest time traversing two city blocks. But go ahead.

Mr. Swart: Whether it was five days or not, it was an internal document that showed they had a 13-week supply of coffee and that in July the price of the coffee they would be using would be no higher than it was; yet they made two price increases at that time. The minister made no intervention whatsoever. I say that is not a satisfactory attitude by the minister when those kinds of unjustified price increases take place and are brought to his attention.

I want to take lumber as another example of unjustified price increases. This time it is a wholly Canadian product which uses our own natural resources. This dramatic increase in the price of lumber was first brought to my attention, not by a person who went out to the lumber yard to purchase lumber but by two lumber dealers who apparently noticed I had been involved in the coffee-pricing issue. They each said: "I am ashamed to charge my customers the high prices I have to charge them for some of the lumber at this time. Would you look into it?"

You will know that I wrote to you on January 17, January 26 and February 5 and raised the matter in the House on March 15. In those letters I emphasized four things. One was the tremendous increase in prices, using two-by-fours as an example, of 70 per cent in two years, from $165 to $265. Those figures were taken right from the trade publication.

I pointed out there had been a tremendous increase in the profit of the forest industry, that there was a change in the thickness of some of the sanded plywoods to make them thinner by 10 to 16 per cent and also that they were charging Canadian consumers US prices, which was one of the main reasons for the big jump.

Nothing was done by you or the federal government when I sent the letters to them. I would like to quote from part of your answer and the answer from the federal government with regard to this.

You say: "I say again, however, frankly the philosophy of my party is one that supports the free enterprise system. Whether it be lumber or even such an important item as food, it is our belief that we should at the most conduct only monitoring programs and attempt to inform our consumers of the reasons behind the increasing prices." I think that is a fair statement of your philosophy.

The reply I got from Mr. Brian Malloy, who was director of the prices and productivity analysis division, said this:

"It may appear unreasonable that Canadian consumers are asked to pay a higher price for lumber as a result of developments in the United States. However, our future as a trading nation depends vitally on our ability to withstand the various price shocks that an open economy invites. The alternative of maintaining an artificially low price in Canada through a two-price system would increase the likelihood of supply shortages on the domestic market as companies diverted their production to exports."

Mr. Chairman: It wasn't clear either to the chair or to the minister exactly who you were quoting.

Mr. Swart: It was Mr. Brian Malloy I was quoting. He is director of the prices and

productivity analysis division, centre for the study of inflation. My letter was referred to him. The previous time, of course, I was quoting the minister's letter to me.

As a result of that letter and as a result of that admission there was no investigation, no slap on the wrist, no nothing. It was fine that we here in Canada are being charged American prices for our own processed natural resource.

Then, both letters contained a little bit of the usual buck-passing. Again I quote, first from Mr. Drea's letter:

"As we have discussed on previous occasions, we do not feel, however, that my ministry should get into the price control business in lumber or in any other consumer product sold across this province. In this particular case, the influences that your export policies may be having on prices is clearly an area for the federal government. We note that copies of your memo did go to the Minister of Consumer and Corporate Affairs. We look forward to receiving his comments."

The letter coming back from the Minister of Consumer and Corporate Affairs contains this paragraph:

"An alternative way that the Canadian consumer and taxpayer can benefit from this increased level of production in the wood industries is through the payments these companies make to provincial governments for harvesting wood on crown property. Fully 70 per cent of the value of wood production originated from these provincial lands in 1976. The fees paid by companies for this right amounted to about $100 million in that year.

"Any change in this area is a responsibility of the provincial governments and clearly beyond the mandate of the centre."

On the one hand the provincial ministry is saying they can't do anything about it—that the federal government has the responsibility, if there is some. On the other hand the federal government says that if the prices were going up the province should get into the act and get more money for the consumer. Of course nothing whatsoever was done.

In lumber we have seen the case dramatically worsen. At the end of August two-by fours were selling for $365 and went as high as $385. They are now down to the $345 level, as you may know, but that is still much more than twice as high as it was just two and a half years ago. I think what it is doing to our housing industry has to be fairly obvious.

I wrote to you again on September 6 and as yet have had no reply from you. We know the centre for the study of inflation, regardless of the name it had at any given time, is gone. You have made no representation to the federal government on this recently—am I correct?—with regard to lumber pricing.

Hon. Mr. Drea: No. How can I send it to a nonexistent organization? You told me they just abolished it.

Mr. Swart: I didn't say they abolished the federal government; I said you have sent no letters to the federal government—to the Minister of Consumer and Corporate Affairs.

Hon. Mr. Drea: No, and I haven't sent them to the organization that has been disbanded either.

Mr. Swart: So we consumers purchasing lumber and the lumber dealers have no protection whatsoever in these prices—not a whisper of protest from any government.

[12:15]

It's wreaking havoc on our small business operators too. I have a letter with me from one of them who complained rather bitterly. This letter is from Mr. W. J. Muzzatti, president of the Trend Millwork Cabinet Limited. It's a copy of a letter which he sent to his association, the Architectural Millworks of Ontario, dated February 14, 1979, RR 1, Minden, Ontario. It's addressed to Mr. Sam Thompson of that association:

"The drastic increases in the price of lumber and plywood have been receiving much publicity of late. We are enclosing a copy of a letter recently sent by Mr. Mel Swart, MPP for Welland-Thorold. Mr. Swart's letter referred generally to construction lumber and plywood but nevertheless, we, as millwork manufacturers, support his position on this subject. The dramatic increase in the price of upper-grade hardwood lumber and plywoods in the past few years has been completely unrealistic. These increases are particularly discouraging to firms in the millwork industry as we are not in a position to pass these increased costs on to our customers due to fixed price contracts.

"As the association is aware, many of our contracts are completed two and three years after the tender date. We are providing you with the following example of what has happened to the price of three-quarter-inch veneer core birch plywood in the past one and a half years—plywood manufacturers in the provinces of Ontario and Quebec: May 11, 1977, price per 1,000 square feet, $582; November 15, 1978, $814; February 5, 1979, $995.

"This is a 71 per cent increase in 21 months. We are advised today that some

mills would not provide a firm price on this plywood because of the unstable market and would accept orders on a price-at-time-of-shipment basis only. This would allow the mills complete freedom in determining prices.

"We urge the Architectural Millworkers of Ontario and the Architectural Woodwork Manufacturers' Association of Canada to take whatever steps are needed to have this matter brought to the attention of the appropriate parties for immediate action."

Price escalations such as this are not only hurting the consumer but they are also hurting small business. It is no wonder small businesses in this province are falling by the wayside in ever-increasing numbers.

Let me give one more example of this government's ineptness—and I use these words advisedly—indifference and anti-consumer, pro-corporate bias in the pricing field. I refer to the prices of bathroom tissue and tissue paper towelling.

You will know, Mr. Minister, that I wrote to you on August 8 complaining about the high cost of paper towelling and bathroom tissue. You replied to me on September 11. I would like to deal briefly with the letter I sent to you and the reply you gave me.

In my letter to you, I pointed out that the average price of tissue in Ontario was 45 per cent more. If you took all of the tissue that was for sale within the two major supermarkets, Loblaw's and Dominion, the price was 45 per cent higher than the average tissue in United States supermarkets. I checked at four supermarkets and used the average of all sold in both. I pointed out there that some of the quality was lower in the United States supermarkets and that the average price for equal quality was 30 to 35 per cent higher in our supermarkets here.

I have to say to you, Mr. Minister, I was simply astounded by your September 11 reply to my letter of August 8, in which I asked the Premier (Mr. Davis) to investigate, along with the federal minister, the pricing practices of the Canadian producers of toilet tissue and kitchen towelling.

Because the figures and comments in your letter are so misleading and incorrect, I am releasing it along with my comments in response. You make no attempt, in your letter to me, to refute the average regular retail prices of these commodities in Ontario and New York state. I assume you accept them as correct. Instead, you picked out special sales in certain Ontario stores to make the difference look less.

Let me assure you that United States manufacturers and supermarkets have special sales as well. If you compare them with special sales in Canada, the same 45 per cent differential exists. I might just point out to you, if there is any doubt about these sales, that there are many of them there: Dial soap, for instance, is on sale by a leading manufacturer, and they also have retail sales the same as they do here. But there is no comment made about the average consumer price.

I suggest you were even more misleading when you noted—and I quote from your letter—that I paid 69 cents (US) for a single roll of Scottowels in the United States, while a Toronto consumer was buying two rolls of Scottowels for 88 cents (Canadian) at one chain store. You will agree that quotes you accurately, and there is no qualifying—

Hon. Mr. Drea: Excuse me, where are you? I have the letter here, but I can't find that.

Mr. Swart: Right at the beginning of the second paragraph: "I note that while you paid 69 cents (US) for a single roll of Scottowels, a Toronto consumer was buying two rolls of Scottowels for 88 cents (Canadian) at one chain store." You didn't mention, of course, that they were entirely different towels. The 69-cent one I bought, as I am sure you are aware, is this towel. These are the two you say you bought for 88 cents. There is no qualifying comment like that in the letter you sent me.

Anybody reading that letter would believe they could buy two of the same Scottowels here at 88 cents as they would in the United States, which is of course incorrect.

In your letter you attempt to show that E. B. Eddy is not selling its tissue any cheaper in the United States than it is here. That defence is riddled even more with inaccuracies and biases.

While the Canadian price of $28.50 for a case of Swans Down is identical with the information I have received from the Canadian supermarket sources, your comparative figure of $23.40 for Soft and Pure in the United States is wrong.

Four major United States supermarket chains gave me the price of $21.50. After I got your letter, no longer ago than last Friday, I went to one of the supermarket chains in the United States, and they showed me their price list with the price of $21.50.

Somewhere or other I may have the wrong information. If I have the wrong information, then I will apologize if you will get from E. B. Eddy the price invoices they have submitted to the four major supermarket chains in the United States. I checked; I have seen the documents there for four major supermarkets. I will give you the names of those

supermarket chains if you wish, and you can check with E. B. Eddy.

I am saying to you categorically, the price they are paying is $21.50. I will give their names to you confidentially, because those supermarkets are not prepared to have their names made public for obvious reasons, but I ask you again, where does the $23.40 figure come from?

Hon. Mr. Drea: I'm sorry; I don't understand that.

Mr. Swart: You don't understand, because I got those from employees of the supermarkets.

Hon. Mr. Drea: Oh, you didn't get it from the supermarkets?

Mr. Swart: Quite frankly, I had some turndowns. They said: "We don't want to let out, for obvious reasons, those prices," but in this instance, I suggest you can get them, your ministry, confidentially. You don't have to publish them, but I would like to see them.

Hon. Mr. Drea: How can I obtain them confidentially and show them to you? If I show them to you, they are public.

Mr. Swart: I will keep them confidential.

Hon. Mr. Drea: Oh, Mr. Swart, that's too much of an onus for anybody. If we are going to obtain invoices from companies, I have to share them with the committee. I can hardly say it is confidential.

Mr. Swart: That is a decision you have to make, but I have checked and know the price is $21.50.

Hon. Mr. Drea: Mr. Swart, if you are so sure, you surely should be able to table the documents. If you have seen them, you have photocopies of them.

Mr. Swart: I suggest, when you refuted my first argument, I had already checked the wholesale prices and the onus is on you to prove that what you say is correct, and you obviously, as a minister, have access to some of these I do not have.

Hon. Mr. Drea: Mr. Swart, I don't have. Let's lay that one at rest. I don't like dealing in confidential documents that come from industry only to me. If the industry is going to submit them to me, my approach is the moment I get them they become a public document. I think I would be entirely in violation of my responsibilities as a minister of the crown to accept confidential information and say that now I know the real answer, I am not going to share it with anyone. Rightly or wrongly, I just won't do that.

Mr. Swart: Mr. Chairman, whether it is confidential or not, it would seem to me that if E. B. Eddy is correct they will be prepared to supply that information.

Hon. Mr. Drea: We will see. We can fight over semantics but I just want to make it plain, I do not deal in confidential documents. The moment it comes on my desk, as far as I am concerned it is a public document. It may not be worthy of release because it is irrelevant or something like that, but I am not going to get into the game of getting confidential documents and then saying, "Yes, I can give you an answer but the whole background and everything else isn't available." You can't run a ministry that way, or you shouldn't.

Mr. Swart: If you would turn to page two of your letter, Mr. Minister, you will note you have included in the United States cost of Soft and Pure—where the comparison is made to show that E. B. Eddy is getting as much return from their Canadian sales as they are from the United States sales—a figure of 66 cents freight to Buffalo, but you include $1.60 as an average of all Canadian destinations in the Canadian comparison.

Are you not aware that Soft and Pure is shipped to major markets in the United States far beyond the Buffalo area?

Hon. Mr. Drea: Yes.

Mr. Swart: Why did you not compare average freight costs to United States destinations with average freight costs to Canadian destinations, or conversely, why didn't you compare the cost of shipping to Buffalo with the cost to the Niagara Peninsula? After all, they are about the same distance from Hull, where the tissue is produced. It is not a fair comparison in freight rates.

Hon. Mr. Drea: It is not necessarily the same truck rate, Mr. Swart.

Mr. Swart: It is pretty obvious it is not a fair comparison. There was an omission, too, which compounded the inaccuracy in your comparison, the fact that the rolls of Soft and Pure contain more toilet tissue than the rolls of Swans Down. You said that you made, and I quote, "a detailed comparison with tissue products and prices between Buffalo and Toronto areas."

How, then, did you neglect to notice there are 500 sheets in a roll of Soft and Pure and only 400 of exactly the same dimension in Swans Down? Did you not weigh them and notice that the four-pack of Soft and Pure was somewhat heavier, or were you content to ignore the greater volume in the cases being sold in the United States market to make the comparison look better?

The facts are that E. B. Eddy has been and is selling its tissue to the United States at a

price well below its return here. Why should Canadians pay more for their own products than are charged in another country?

Far from me apologizing to E. B. Eddy, as you suggest, you should extract an apology from E. B. Eddy if it was the source of your faulty information. The sale of E. B. Eddy tissue in the United States at a price below its Canadian prices testifies to the overall excessive pricing structure of household papers and tissues in Canada.

But it is not, as you know, the main thrust of my letter to you. The overriding point in that letter was my charge that the prices of towels and tissues are not directly related to the cost of production here, but rather are set at a level just below the price of imports. With a 17½ per cent duty and a Canadian dollar worth 15 per cent less than the United States, it simply means prices 30 to 35 per cent higher than the US, and you didn't even reply to that charge in your letter.

[12:30]

As I stated in my letter to you, all tissue and towelling sold in Canada is made in Canada from Canadian sources. Why should the Canadian-US dollar differential have any bearing on the price here? The forest product industries are mainly multinational, frequently producing lumber or newsprint or both, in addition to tissues and towelling.

Canadian produced newsprint is sold in Canada at $408 Canadian currency a metric ton compared to $413 United States currency in the United States. Why can't it be done with other forest products like tissue and towelling and lumber? If they can do it in newsprint, one price here, another in the United States, why can't we do it in the other consumer products?

I suggest it is just simply because the consumer doesn't have that kind of clout that the purchasers of newsprint have. I think, surely, nothing can more clearly demonstrate it than that letter of yours does; your determination to take a hands-off policy in any price protection to the consumer, and instead defend the corporations.

I have to ask what kind of administration is this when those kinds of replies are made. What kind of administration is this when you don't make the slightest move to give the consumer any price protection? Even today's overview for next year that you gave didn't even express any concern about prices. If you are not prepared to do anything about excessive pricing under any circumstances, then any monitoring like the food price monitoring program, I suggest to you, is useless.

You know, perhaps Hugh Winsor put it most clearly in his column in the Globe and Mail when he states that you reject the food prices review board of the New Democratic Party. He states:

"Mr. Drea said the only way to control prices was by selective shopping, buying the products that are priced fairly and justly and forcing down those that are priced unjustly or unfairly by the very glare of public spotlight. To adequately arm consumers to make these decisions, his department has introduced a food price monitoring program covering 70 products in 34 different communities, which has now issued three reports. It all sounds quite impressive until you realize that the program is firing only blanks.

"The ministry program is operated by the policy planning branch which sends the ministry's regional employees out into stores once a month with their notebooks to price a list of items. Their results have been tabulated by computer. They have then spewed out a bland porridge; no individual brands or stores are mentioned, only averages.

"We are left with gripping information. The average of 72 food items priced in Windsor, for instance, was 1.1 per cent higher than the same items priced in Toronto in March, but only 0.6 per cent higher in July." I won't go on reading, but he indicates rather clearly a monitoring program per se, is of little or no value. Nobody reads these reports.

To the best of my knowledge—you may be able to correct me on this—the last two reports have not even had any mention in the media. I have looked through, and they haven't even had any mention in the media. How then is it going to protect the consumer? I say it is a façade, and what we need, really, is the real thing.

I want to say in my view, and the view of our party, there are at least three reasons why the marketplace is not protecting the consumer adequately. In this party, we believe that when the marketplace works adequately, when it works freely, it can go a long way, perhaps all the way, in protecting the consumer. But there are conditions existing today which prevent that.

One is the domination of production by multinationals, coupled with a concentration of the market in fewer and fewer hands. This is true of coffee, and you must be aware of this. General Foods here, of course, which is United States owned, handles 40 to 50 per cent of all the coffee. It dominates the market, and there are very few in that market.

In the United States, we are told over and over again, when the chairman who normally sits in that chair, and I was doing some work on this, one of the reasons the prices

are so much lower in the United States—in New York and in Florida—is simply because there are a lot more small grocers. In fact, there is no question, that we have reached the place in our society because of multinationals, a variety of reasons where the competitive system is not fully acting to protect the consumer.

It is true of detergent companies. Three multinationals, once again—only three in the business here in Canada—all owned outside of the country. Even in the retail trade, there is a greater and greater concentration of retail power in a few hands, particularly Dominion and Loblaws. In fact, Mr. Minister, you'll realize your government recognized this when they appointed the inquiry into discounting allowances in the food industry in Ontario. They were "to inquire into and make recommendations respecting"—and I'm quoting from the terms of reference—"the effect, if any, of the practices referred to in clause (a) on price spreads, or on the level of prices, and, subsection 1, paid for food or grocery food products by Ontario consumers." The recognition is there in the distribution system that there should be an investigation, that it's something we should take a look at.

Would you not equally agree that we should take a look at the manufacturing level, at the wholesale pricing level, to determine why prices have increased there and what situations exist that perhaps should be corrected for the benefit of the consumer?

The second reason our marketplace is not working is because of the real and perceived shortages. We know this with regard to energy and with regard to oil. Governments have intervened, perhaps not always adequately—I'd say not adequately—but they have intervened to see that the manufacturers may not arbitrarily raise the price as they see fit. In other fields, government is told to keep its hands off.

There has been a bit of a shortage of lumber in recent times, as I'm sure you are aware, as well as some other forest products, but once again, it's hands off. If they can make more profit, let them go to it.

Third is the devaluation of the Canadian dollar, which has contributed to the marketplace being ineffective in some areas. Anyone examining the pricing situation in Canada can't help but recognize that this is being done extensively and arbitrarily, particularly by the multinationals.

There was an article in the Toronto Star, on May 17 of this year, which said: "Industry Toasting 58.3 Per Cent Profit Rise." It didn't turn out to be quite that high, but it was pretty close to it. The article gives the reasons for the new profits surge. First, suppliers have been able to charge higher prices because the dollar drop has cut import competition. That's exactly what I'm saying with regard to toilet tissue. Secondly, wages held back by controls have allowed higher profits when prices rise.

This same thing has happened in many fields, not just in the field of lumber. I hope you have looked at what has been happening recently with copper prices. If you've traced that back you will find that for the years 1974 to 1976, prices in Canada were equivalent to those in the United States. Where it was produced here, that price was charged to Canadians; if it was produced in the United States it was charged at the United States level—there may have been some flow across the border—of course, I could give you those figures. But once the dollar started to change, then our prices—not that our costs went up—for copper, for example, went up substantially.

I have two clippings here out of the paper. I'll only read one. The latest is from September 4:

"Texasgulf Metals Company of Toronto, a division of Texasgulf Incorporated of Stamford, Connecticut, has raised its Canadian price for copper by three cents a pound to $1.12 for cathodes and to 112.6 cents for wire bars. Its price in the United States is up by three cents US, to 96 cents, compared to $1.12 here, and for copper cathodes to 96.6 cents." That's just the difference of the exchange between Canada and the United States.

If we produce copper here, why should the purchasers of copper here not have the right to buy it at the cost of production here, instead of at some artificial price set on some foreign currency—whether it's the lira or whether it's German currency or whether it's the rouble? I suggest there is no justification for the people in this nation having to pay those kinds of prices.

You said, I think—and I hope to quote you correctly—the middle-income, or middle-class consumer has enough information for protection in the marketplace, or something of that nature. You're concerned about those—

Hon. Mr. Drea: I didn't. I said legislation.

Mr. Swart: What can a consumer do with regard to some of these inputs like copper, that go into the prices of those products? This is true of lumber, the same as copper; it's true of toilet tissue, it is true of detergents and soaps.

Incidentally, I think it's worth putting on record here, that with regard to detergents,

where it has been denied by some people in the industry, that there is that differential. Mr. Ian MacKay, the marketing manager of Lever Brothers, said on the CBC on Thursday—I forget that date—when he was interviewed on this issue, he said, "Prices in Canada are one third higher for the same product than in the United States".

The most important factor is US dollars relative for the two. Then you get into the cost of producing the product, because there is a significant difference. There may be some difference in that. But when they pay the Canadians who work in that Lever Brothers plant in Canadian wages; when most of the supplies they get are paid for in Canadian dollars; and when most of the costs of energy and so on are paid in Canadian dollars, why should they automatically add the 15 per cent differential to the price of the product? Obviously, they shouldn't do that.

I say this is shameful. We recognize that when our dollar is reduced, there are necessarily both beneficial and harmful results. We, of course, have to pay more for those things which are imported, the 14 per cent. Of course, when the dollar's devalued it helps us to get into the export market.

I repeat that I and my party welcome that export increase, if it means jobs and if it means export of a not-scarce commodity.

The side effect of this price increase by many multinationals raising the prices of the goods we produce here is totally unnecessary. I suggest it must be stopped by government in the interests of the consumers here.

I would like to ask, does the milk control board of the province of Ontario allow the farmer 15 per cent more because of the devaluation of the Canadian dollar? The price of milk isn't that much higher than it is in the United States. If it holds true to the manufacturer—

Hon. Mr. Drea: As a veteran New York state shopper, don't run that one by me. Do you know what the price of milk is in New York state?

Mr. Swart: I know what the price of milk is in New York state, yes.

Hon. Mr. Drea: Much lower, right?

Mr. Swart: No, it is not.

Hon. Mr. Drea: Sure it is.

Mr. Swart: You haven't been over there lately. No, it is not.

Hon. Mr. Drea: I don't shop in New York state. That's your area.

Mr. Swart: As you well know, I've done a great deal of shopping in New York state recently and I've checked these prices and have them in my pocket.

Hon. Mr. Drea: I'm sure the dairy farmer in Ontario would be delighted to find out that New York state milk was up to a reasonable price, rather than being dumped.

Mr. Swart: I'm sure the Ontario farmer would be delighted if you added 15 per cent to his price here to bring it up to the United States dollar level.

Hon. Mr Drea: I am appalled that as a man from the Niagara Peninsula, you don't know that. Do you know there's going to be a shortage of carrots this winter, just as there was last winter, because the Canadian farmer is getting the American price? They come up here and take them.

Mr. Swart: They may.

Hon. Mr. Drea: They have, you know that. You know the marketing board down there—you know that's happening.

Mr. Swart: But what we produce here in the way of milk that we don't ship there, we don't pay the American—

Hon. Mr. Drea: You can't ship into New York state. You can ship carrots into New York state, and believe me just as last winter, there won't even be a carrot in a warehouse. You know what happened.

You know what's happening with the tender fruit marketing board. You know what's happening down there. The Americans are just coming in. It's a 15 per cent discount. They're buying. They're not dumping any more. Taylor's doesn't come in and dump any more.

Mr. Swart: I bought peaches that didn't have the United States price attached to them this year. I bought all kinds of fresh fruit in the Niagara Peninsula. The United States market had no bearing on it—the pricing in the United States.

Hon. Mr. Drea: The United States market is having a tremendous bearing on it.

Mr. Swart: It shouldn't on these other items. But all of the copper sold, all of the lumber sold by either Canada or the United States, is sold at the United States level.

[12:45]

I want to say, let there be no doubt that you and your government do have the power, you have the constitutional power, to do something about excessive prices, if you want to. You have authority over retail pricing—granted it's vague—under section 92 of the BNA Act. If you didn't have that authority how would you institute rent review which is a form of price control? How

did you get the oil companies to refrain from raising oil prices for 134 days in 1975 until their old supplies were used up if you didn't have some clout or didn't have some authority? Of course, that was an election year. But I suggest that if you did it then you could have done it to coffee prices recently. It's exactly the same situation.

The ways that it can be done are one; you're doing some of this and you can supply information so there can be adequate comparative pricing. But that's clear that that's not enough.

Secondly, the way you can do it is to rap the knuckles of the price gougers now and then, as you did on coffee when you weren't in that portfolio and obviously you did not have the support of the government behind you.

Hon. Mr. Drea: Sorry? What would I do if I were not in that portfolio and did not have the support of the government?

Mr. Swart: When you weren't in this portfolio you rapped the coffee producers. You weren't in this portfolio and obviously did not have the support of the government.

The purchase policy of the Ontario government could be that you don't buy goods and services, if it's possible to get them elsewhere, from those who are arbitrarily charging these high prices. You refused to buy coffee for the jails when you were minister and you could expand that. That would have some beneficial effect on prices.

Of course, you can pass legislation to give yourself the power to order retail prices held on an ad hoc basis, or rolled back. Even the passing of such legislation, I'm sure you would recognize, would have a dampening effect on prices. It would signal to the manufacturers that you were serious about the high-price situation and you weren't going to permit excessive prices.

Of course, you could establish the excessive profits corporation tax. It might not be a bad idea. When profits go above a certain level you could use that for health care, for education, a variety of things. I know there are implications in that but it's one way of doing it. Or you could establish an ongoing fair prices commission which would have the power to investigate and to roll back.

We in this party recognize that the federal government has to be involved in this; it ought to be involved in it, there is no question about it. They have a great deal of power and authority. But you do have certain powers if you want, and if you want to use those powers with one-third of the population of Canada you have a lot of clout. There are ways of doing it. It is the will to do it that is required.

I think you must recognize that the public does want something done to control excessive prices and, more and more, the public are going to demand it. So, as minister, it has been shown to you in the Gallup poll which was taken back on July 26, 1979, where the question was asked of the public, "Would you favour or oppose the imposition of price and wage controls by the federal government?" on price controls 66 per cent approved.

Hon. Mr. Drea: What about wage controls?

Mr. Swart: Wages was only 51 per cent.

Hon. Mr. Drea: Yes, but you can't do one without the other though.

An hon. member: Why not?

Mr. Swart: You can do one without the other. If you keep the top on that pressure cooker the stuff will stay down on the bottom.

I'm just about finished. I'm going to be dealing with that in just a moment.

Another poll published on Thursday, May 31, 1979, a part of a very large survey costing $1 million about the quality of life in Canada—it was supported by the Social Sciences and Humanities Research Council of Canada, headed by H. Michael Stevenson, chairman of York University's political science department, and sociologist Michael Ornstein —showed a number of very interesting things.

It said the leaders' ideas are out of step with the public. It said about six out of every 10 ordinary Canadians think our economy is too tightly tied to the United States. Farm and trade union leaders share that view.

Then the survey goes on to show the man in the street supports mandatory government price controls to slow inflation. A majority of cabinet ministers, federal and provincial deputy ministers, mayors, academics and farm and labour leaders also like compulsory price controls. Only businessmen—and, by a slight margin, members of Parliament—are opposed to price controls.

The evidence is clear that they want them and they need them.

The Canadian Institute of Economic Policies also wants some kind of price controls. You're probably aware of their publication which they put out after a lengthy study and was reported in the press on July 31, 1979. It talked about "the other elements of the package include some type of income policy aimed at holding down prices of big companies and monopolies should be adopted."

Like medicare and like rent control, your government is fighting and has fought this issue, but I suggest eventually you're going to be forced into it as you were with medicare and as you were with rent review. If you don't do anything about it, and if the federal government doesn't do anything about it, I suggest that you're going to be replaced.

There is one final thing I want to say, Mr. Chairman. If, because of high prices, if because of huge profits, the workers in the forest products industries, the workers in the copper or other resource industries, or workers generally, say, "We have a right to at least hold our own with CPI, and we have a right to some of those profits" and demand much higher increases and wages than they have been getting, they simply cannot be blamed.

If a wage-price spiral starts again then the responsibility rests squarely on the shoulders of the industries which have made these kinds of profits, on your government and on the Tory government in Ottawa for doing nothing about it.

Mr. Chairman: Thank you, Mr. Swart.

We do have a problem. Mr. Swart, you started speaking at 11:45 and it's now 12:50. We had allocated three hours for the first vote. It would obviously not be fair to the minister to ask him to respond to both Mr. Breithaupt, who took 20 minutes with his leadoff statement, and to you, who had a very extensive and detailed statement, in 10 minutes. So I'm going to ask members of the committee to agree that the minister can start his comments now and that when we reconvene on Thursday afternoon, that we will have to simply take away some time from the second vote for the minister's response.

Mr. M. N. Davison: Do you have the times to supply me again? Mr. Breithaupt had 20 minutes. I didn't hear what Mr. Drea and Mr. Swart had.

Mr. Chairman: Mr. Swart started at 11:45 and you subtract that from—

Mr. M. N. Davison: An hour and five minutes. And how long was the minister?

Mr. Chairman: The minister started at 10:20 and went to 11:20.

Hon. Mr. Drea: But I was interrupted. It wasn't all mine.

Mr. Chairman: I'm only trying to be fair to all parties when I'm pointing that out.

Mr. Breithaupt: Mr. Chairman, we would agree to that. If the minister requires any additional time from what is left, certainly let him proceed so that that's dealt with.

Hon. Mr. Drea: In all fairness, Mr. Breithaupt, you asked a very detailed question; I have somebody here who is prepared to answer it. It's not a question that can be answered in a yes or a no. It was a series of detailed concerns and I would think to outline it reasonably certainly Mrs. Jacobsen is going to take at least 20 minutes and may indeed require more time on it.

Mr. Breithaupt: Whatever is convenient, Mr. Minister.

Hon. Mr. Drea: The second part of your question I think I have dealt with I would hope, though, that perhaps somewhere, either in this vote or in the business practices vote, we could get to the electronic checkout as well as your transfer payments. Indeed, as I said before, I'm not the lead ministry in this although naturally I have an overview of the situation. I also have a very distinct position of my own on it. When it comes time for legislation, whether it's done provincially or, hopefully, federally, I have a very, distinct position which the Attorney General of the province shares with me on that matter.

As I say, I will get you the things from the— The federal minister also has a distinct position to honour and on the basis of what notes we made, I don't think the other ministries in other provinces would be upset at all. They have very distinct positions vis-à-vis one or the other. We will get to that.

Mrs. Jacobsen will go through the Quebec situation. I've always had—well, I still have —the greatest of professional relationships with the former consumer minister, Madame Payette. Of course, she has moved, but she shared with us a great number of initiatives she has undertaken. We have shared a great number of initiatives we have undertaken here, but in that evolvement of the answer, Mrs. Jacobsen is fully aware of all of their operations, including the taxes on advertising finances, which is, again, a relatively new concept.

Mr. Swart, I would like to just deal with the coffee item now. I think, in fairness, if you go back and you look at Hansard I know exactly what I said in the House and I know exactly what I said outside of the House and I know exactly what letters I have written on the matter.

When I was the Minister of Correctional Services, I said coffee was a ripoff. I didn't say the coffee grinders in Canada were doing it. I didn't say that at all. The things I have done in the last few weeks and now, I don't think have made me very popular with the government of Brazil which is trying to rig the commodities market for the specu-

lators in New York. It has always been my contention, Mr. Swart, and I believe I've answered you this on several occasions both as the corrections minister and in the present portfolio, that as long as the Canadian industry is so small it has to rely upon the spot price in New York rather than being able to buy direct, we are absolutely at the mercy of the commodity market in New York City.

Only recently has the government of Brazil begun openly to rig that market. You know that. Everybody knows it. Their speculator friends were going down the drain.

The government of Brazil froze the export of coffee. Why did they freeze the export of coffee? They saved up their roast coffee for the market and at the same time, they have learned. They tried to run a primitive form of OPEC in the past and they got themselves burned very badly. They have learned and tried to be sophisticated. What they did over the summer months during that freeze was to convert their beans into instant coffee or freeze-dried or whatever you want to call it.

They are coming into the North America market with a two-pronged offensive. Part of it has already begun and that is they are going to send the price of bean coffee sky-high. At the same time they are going to try to mediate the impact of that in the marketplace which bitterly resisted them the last time.

As you know from reading the documents, the per capita consumption of coffee dropped very dramatically in 1977-78, and was only beginning to come back now. I said not too long ago that once the signal is on—and I think it is on and it's moving through the system—that when you start to see the specials on the freeze-dried coffee because they're going to dump it, you will begin to see a noticeable increase in the price of coffee in the bag which you use for the percolator.

That has already happened, Mr. Swart. It's gone up virtually 90 cents a pound. I can tell because my wife buys it and it was on special all the way through the summer. The specials are off and it's reverted to its normal price, if the government of Brazil is allowed to do it. There have been certain conferences with the government of Brazil on this matter. I don't think the government of Brazil is quite as adventurous as it was six or seven weeks ago. Nonetheless, if they do it, Mr. Swart, I hope you will follow my advice. The only way you can deter a nation from deliberately moving into a commodity market and rigging or fixing or whatever you want to say—and you can do that, Mr. Swart—

Mr. Swart: The spread between them.

Hon. Mr. Drea: No, no, Mr. Swart. I suggested three or four weeks ago—I think it was at that time—when the price really starts to soar and you get the signals, there is only one retaliation you have available, and that is to cut down on your consumption. I have stated publicly there is no point in stocking up on coffee; you just bite the bullet a little sooner. You can put in a five- or six-week stock if you like, but you are still going to have to face the test. The only way you can deter the government of Brazil from running an OPEC, Mr. Swart, is in the market.

If you look at the spot commodity prices—I take it you do check the commodity market now and then—

Mr. Swart: It was down seven cents at the end of August—

Hon. Mr. Drea: Yes. Because the government of Brazil didn't do—

Mr. Swart: —but the price of coffee here went up 25 cents.

Hon. Mr. Drea: It never went up in the market. It went up at the wholesale level because they were trying to spread the impact. All I am saying is the government of Brazil is rigging the commodity market. The only way you can deter a nation that has bought up other supplies as well, and I think you know this, is just to cut down on your coffee consumption.

At the time that it comes, I advocate that position, Mr. Swart. It is that simple.

You asked one other thing: when did I ever intervene in the marketplace? I intervened once, Mr. Swart. I didn't like to do it, but there really wasn't much choice; because the processors were attempting to rig the market. That was in the case of turkeys. There was no question the processors were trying to do something there. It didn't come from the newspapers; it came from the turkey producers' marketing board. They came in and gave us the details. I think that worked very well.

I suppose I got my come-uppance. I was in northern Ontario this summer, and they buy from Manitoba there. I guess Manitoba had a surplus and they had turkey specials morning, noon and night. That was my come-uppance; I couldn't eat anything other than Manitoba turkey.

So we do that, Mr. Swart.

Mr. M. N. Davison: Popular dish in Manitoba nowadays, turkey.

Hon. Mr. Drea: I'm delighted any time something is done for the Canadian producer.

Hon. Mr. Drea: In reply to your other points, Mr. Swart, I am prepared to read the documentation, et cetera. Mr. Breithaupt particularly wanted a detailed answer, and I will do that tomorrow.

If it is in order and the chairman has drawn this to my attention sotto voce, it is one of my concerns as well that this is an enormous ministry in terms of scope. If you would like to discuss a particular thing and would like our background on it, if you could just give me the item of concern we will try to provide you with as much information as we have on it. That might speed the matter up.

There is only one other thing, Mr. Swart. I worked with Mr. Vincent Egan for a long time; but, personally, in the field of economics, et cetera, I prefer Mr. McArthur from the Toronto Star. Mr. Haliechuk has been here and I wonder if he could furnish me with a couple of columns Mr. McArthur wrote on exactly the same subject so I can read them into the record. They might put matters in perspective.

Mr. Chairman: Thank you, Mr. Minister. We stand adjourned until Thursday, following routine proceedings.

The committee adjourned at 1:04 p.m.

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Third Session, 31st Parliament

Thursday, October 11, 1979

Speaker: Honourable John E. Stokes

Clerk: Roderick Lewis, QC

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Hansard subscription price is $15.00 per session, from: Sessional Subscription Service, Printing Services Branch, Ministry of Government Services, 9th Floor, Ferguson Block, Parliament Buildings, Toronto M7A 1N3. Phone 965-2238.

Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee resumed at 3:28 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Chairman: We have 17 hours and four minutes left in these estimates. I believe we were on the first vote in the process of the minister's reply to Mr. Swart. He'd already given his reply to Mr. Breithaupt.

Mr. Swart: Mr. Chairman, before we proceed in that manner I have two points of order I'd like to make. My point of order is that the minister stated yesterday that something I quoted was not true.

Hon. Mr. Drea: That's right.

Mr. Swart: It pertained to the matter of his statement relative to the ripoff of coffee. I want to correct that and read into the record the actual situation.

Yesterday, according to Instant Hansard, I said: "In October 1977, the minister"—referring to you before you were the minister of this ministry—"said coffee companies were profiteering."

"Hon. Mr. Drea: Not true.

"Mr. Swart: I took it from Hansard.

"Hon. Mr. Drea: You took it from Hansard and I did not say the coffee companies in Canada were profiteering and you know that well. Keep it accurate. Read what I said."

Hon. Mr. Drea: That's right.

[3:30]

Mr. Swart: Mr. Chairman, I have before me Hansard for October 28, 1977. I'd like to quote from that the exchange. I'm sure the minister would agree there was an exchange involving myself, Mr. Philip and some others with regard to the issue of coffee prices.

In the exchange there was reference made to the present Minister of Consumer and Commercial Relations and something that he had said apparently outside the House which was quoted in the Globe and Mail. I quote Mr. Grossman: "My colleague"—referring to the minister—"and others may assume that the price is a ripoff by the sheer size of the charge. In other words, that $5 or $6 is a ripoff. That doesn't mean"—the significant part—"and I don't think my colleague was saying, that the companies are profiteering or making an enormous amount of money." According to Hansard, the Honourable Mr. Drea said: "Oh yes, I was."

Hon. Mr. Drea: I would address that, Mr. Swart. You've taken that out of context. You said yesterday—

Mr. Chairman: Order. Mr. Drea, allow him to finish his point of order, and then I will give you time to reply.

Mr. Swart: I just wanted to say that what I said yesterday was that he had said coffee companies were profiteering.

Hon. Mr. Drea: Read it, please, Mr. Swart. You said Canadian coffee companies.

Mr. Swart: No, I did not.

Hon. Mr. Drea: You just read it now! You said "coffee companies in Canada . . ."

Mr. Swart: I will hand this to the minister. "In October 1977, the minister"—before you were in this ministry—"said coffee companies were profiteering."

Hon. Mr. Drea: You just read "in Canada." That was my impression yesterday.

Mr. Swart: You said: "You took it from Hansard and I did not say the coffee companies in Canada were profiteering and you know that well." That's what you said. I didn't say it was the coffee companies in Canada, athough in this context we were discussing the coffee companies in Canada.

Hon. Mr. Drea: No, Mr. Swart, you were not. I made that interjection. That was an interjection in the House; it dealt entirely—if you'll give me the Hansard, I'll read you a significant sentence.

Mr. Swart: I would be glad to.

Hon. Mr. Drea: Yes. Would you mind bringing it over? The discussion in the House, as I recall it—

Mr. Renwick: Mr. Chairman, on a point of order: This is a committee of the assembly. The minister is not here for the purpose of treating it as he can in the chamber. I ask him to use some decorum. He's here at our request to respond to this committee.

Hon. Mr. Drea: Mr. Renwick, I've always used decorum, and you're aware of that.

Mr. Renwick: Well, smarten up.

Mr. Chairman: Please reply to Mr. Swart.

Hon. Mr. Drea: Mr. Swart, if I recall correctly—and I'm not going to go through all of this Hansard—the question was asked of the then Minister of Consumer and Commercial Relations. The time I interjected was when Mr. Grossman was speaking.

I want to make it very plain—and I am going to table letters I wrote to the industry after—that, number one, at that particular time, and right now, as of today, there is not a single shred of doubt in my mind that coffee producers are profiteering. I did not at that time indicate coffee producers in Canada. I have repeatedly said that when I have replied to you on subsequent occasions, and I hope you will remember that. I have replied to Mr. Philip on several occasions that I was talking about coffee producers and the system that allowed the commodity exchange to dictate a price. I have made that very plain.

There is not a shred of doubt in my mind today, as I say, that there is a ripoff going on in coffee. It is being done by the government of Brazil. If you're interested in some reading, you can try the Congressional Record as of yesterday, or the day before. There's a rather full explanation. There is no question about a ripoff. I used those words. The time I interjected when Mr. Grossman was speaking did not mean—and it doesn't say in here—Canada. It says, "I do not think my colleague was saying the companies are profiteering." I said: "Oh yes, I did." That was, "companies are profiteering." It was not companies in Canada, Mr. Swart. I have made that plain on many occasions.

Mr. Swart: Read what I said yesterday.

Hon. Mr. Drea: I heard what you read today, Mr. Swart.

Mr. Swart: Read what I said yesterday.

Hon. Mr. Drea: You said: "The minister . . . said coffee companies were profiteering." I said: "Not true." You said: "I took it from Hansard." I said: "You took it from Hansard and I did not say coffee companies in Canada were profiteering and you know that well. Keep it accurate." That's exactly my position. I did not say that.

Mr. Swart: The minister says it's not true. Will he withdraw that statement? He did say coffee companies were profiteering. He immediately says, "Not true."

Hon. Mr. Drea: Mr. Swart, look, I'll read you back my answer. I said to you yesterday —and you read it: "You took it from Hansard and I did not say the coffee companies in Canada were profiteering and you know that well. Keep it accurate. Read what I said." I said, "Oh yes, I do."

Mr. Swart: That's not true.

Hon. Mr. Drea: I just read that yesterday.

Mr. Swart: What I said yesterday was that you said Canadian companies are profiteering. Then you said, "Not true."

Hon. Mr. Drea: That's right.

Mr. Swart: But you did say that.

Hon. Mr. Drea: I did not say Canadian companies.

Mr. Swart: I'm not talking about Canadian companies. I didn't say Canadian companies. I said you had said that coffee companies were profiteering.

Hon. Mr. Drea: Yes, sir.

Mr. Swart: Isn't that what you read there? Then you said, "Not true."

Hon. Mr. Drea: My answer to you was—

Mr. Swart: You said, "Not true." And it was true.

Hon. Mr. Drea: Mr. Swart, please. I don't think we should belabour the committee with this. There are more important things to do. It's my understanding from what you've said —and if I interpreted you wrong, I apologize. But I replied to you, right there: "You took it from Hansard and I did not say the coffee companies in Canada were profiteering and you know that well. Keep it accurate. Read what I said." Mr. Swart, you read it today. It does not say that I said the companies in Canada were profiteering.

Mr. Swart: I didn't say that.

Mr. Chairman: Mr. Swart, I think you have made your point.

Mr. Swart: My second point of order, to me, is much more serious.

Mr. Chairman: May we have your second point of order?

Mr. Swart: My second point of order concerns misinformation given by the minister. To me, it is much more serious. Read into the record yesterday was a letter to me from the minister in reply to a letter concerning the price of Soft and Pure toilet tissue. The minister gave the information that Soft and Pure was being sold in the United States at $23.40. I want to quote again from that letter. He stated: "If a comparison is made between the list of prices of any forest products in the United States and in Ontario, the results are as follows: Soft and Pure, US$23.40."

I want to say that this morning at 11:55 a.m. I spoke with Mr. Bob Kinnish, the

national sales manager of E. B. Eddy Company Limited in Hull. He informed me I was absolutely correct, that the sale price of Soft and Pure to the United States supermarket chains is $21.50 per case, not $23.40 quoted by you, Mr. Minister, in your letter of Sepember 11 to me and confirmed yesterday. He further stated that this was the price on August 8 when I wrote my letter to you, that it was the price on September 11, the date of your letter to me, and is now the price, and that no supermarket chains there have been notified of any proposed increase in that price.

The exact words in Mr. Drea's letter to me, of course, as far as I've read, are: "If a comparison is made between the list prices of any forest products in the United States and in Ontario, the results are as follows: Soft and Pure, US$23.40."

Mr. Chairman, I state that that kind of false information is unworthy of a minister of the crown. When that false information is corrected, it bears out my contention that E. B. Eddy is selling its tissue in the United States substantially below the selling price here.

Hon. Mr. Drea: Mr. Chairman, the replies to Mr. Swart were prepared by my staff, including a professional economist. They obtained the relevant data from the particular company.

Mr. Swart: Mr. Kinnish—

Hon. Mr. Drea: Excuse me, Mr. Swart; I'd like to finish. Mr. Chairman, I will consult with my staff, we will consult with the company, and we will come back tomorrow or on an occasion suitable for Mr. Swart. I do not provide misinformation, Mr. Swart. That's a very serious accusation.

Mr. Swart: Yes, I recognize that.

Hon. Mr. Drea: If the information is not accurate, I want to find out why it wasn't accurate, because I took it in what I think is the ordinary course of all our relationships with staff. The staff is highly professional, this was the information supplied and that was the basis on which it was disseminated. I will go into it very fully, Mr. Swart, and I will report back to the committee.

Mr. Swart: The minister says in the conclusion of his letter: "May I expect an apology from you to the E. B. Eddy Forest Products Company for your unjust accusation?" In view of that fact will you, therefore, apologize to me if you find I am correct and you are wrong, as you will find?

Hon. Mr. Drea: Mr. Swart, if I'm wrong, I'm always the first one to admit it.

Mr. Chairman: Thank you. The minister will not continue his reply to the opposition remarks on the first item. Carry on.

On vote 1501, ministry administration program:

Hon. Mr. Drea: If I recall correctly, I still had some things to say to Mr. Swart. The only reason I started on some of Mr. Swart's questions that could be answered was that we only had about five minutes left. At that time I apologized to Mr. Breithaupt; he had asked a rather detailed question. It seems to me it was your indication, Mr. Chairman, that we could provide that starting off today, and then I had some additional remarks in response to Mr. Swart. As I said yesterday. I thought it might serve Mr. Breithaupt's purposes better to have the person here whose area of specialty is in the particular field and does cover about 95 per cent of the concerns that he had. I thought Ms. Jacobsen from the ministry could reply to him directly rather than the minister.

Mr. Breithaupt: That's fine, Mr. Chairman. I would be pleased to hear Ms. Jacobsen's comments on the consumer information area.

Ms. Jacobsen: The areas I'd like to go over that Mr. Breithaupt raised are the kinds of initiatives we're doing outside of Toronto. The centre itself is fairly new—it's only two years old—but it has been doing a fair amount outside Toronto. In the last year we either initiated ourselves or were part of the planning team of 32 workshops across the province outside of Toronto. These ranged throughout the north and through small centres such as Orangeville and Bracebridge.

In terms of other non-Toronto issues, we've also met all the library groups and all the consumer information groups when they hold their annual meetings; so we're part of the planning for those sessions.

The third area the ministry is quite active in is in providing speakers for its divisional staff through its field staff and through its technical services staff to all of the areas of the province. I'd also add that our minister probably is out at least one day a week beyond Toronto talking to these groups.

In looking at the inquiry program we provide, we have at least 60 known calls a week from out of town. They're identified as collect calls. That would be a bare minimum because we don't ask people where they're calling from or who they are. So of the 1,000 calls a week we get, 60 are from out of Toronto.

We're also working with local community information centres in 15 centres in the

province so they can handle the inquiries that are coming in. We don't encourage them to call Toronto if we can provide the information in their own community.

In the distribution of information material, we print about 25 information booklets and about 12 information sheets. We distribute about 80,000 of them per month. They go mostly outside of Toronto and they go on request; so it isn't lump distribution. It's people in information centres, in immigrant aid groups, in better business bureaus, in the chambers of commerce and in social service agencies who are asking for our materials.

We've done a fair amount in the last year with industry to get the actual industry groups to distribute the material before a consumer actually purchases something. For example, we've worked with the people who are selling vans to provide our information on propane safety. We've worked with people who are selling smoke detectors to have copies of our information material available at the counter when you are actually buying a smoke detector. I think that's an area we'd like to go even further into—working with industry before people buy things.

With all our material, we base our decision about what we're going to do in terms of advertising and production strictly on the complaints that are coming in. We take the data from our consumer complaints offices, from the information inquiries that are coming into the centre. We've polled better business bureaus and the consumer columnists in terms of complaints that are coming in, and we take the Consumers' Association of Canada complaints. Out of that have come three main priorities—car purchases, car repairs and home repairs. These present the most common problem and constitute the highest dollar figure. For example, when we went into the two radio advertising campaigns, we focused on car repairs and pre-consumer use. The kinds of posters that we put in the liquor stores across the province, and in information centres and libraries, all focus on the areas that are the most common consumer complaints.

[3:45]

Regarding your comments about the media, Mr. Breithaupt, we believe very strongly the best investigation is worth nothing unless the public knows about it and knows exactly who to avoid and knows how to protect itself. We produce about 100 news releases a year, and from our monitoring it shows there is about 95 per cent pickup on those releases.

We do consumer columns for all the weekly newspapers across the province. The columns might not be identified as coming from the ministry, because we don't make any requirement that they have to attribute it to the ministry, but weeklies are printing and picking up these kinds of columns in almost all centres.

We're doing at least one television public service spot a year. We're initiating a fair amount of interviews and a fair amount of the programming you see on television, although the ministry isn't identified as such. If you watch Marketplace, if you watch CTV and a lot of the Global and Citypulse stories, I think we've actually phoned and said, "This is a common consumer problem." We'll set up with them ways they could get a good angle on it. We really pay quite a bit of attention to the television stations and to the open-line radio programs.

We tried an experiment last year with classified advertising, placing an ad in all the papers across the province in the columns where consumers were actually buying things. Where they were looking for people to do home repairs, we put in a little squib saying, "If you're looking for home repairs and to avoid getting ripped off, write for our booklet." We had quite a heavy response from that one-shot ad across the province, for a bare minimum cost. I think those are the kinds of people we're trying to reach, because they're making a decision right at that point.

Regarding the question you raised about product knowledge, we've tended to say the federal government has responsibility in this area and that Mr. Lawrence is actually stepping up his efforts in that area. We think the centre can play a role by keeping all the information that is coming out of either the federal government in Canada, or the federal government in the United States. When a consumer has identified something as a problem, we immediately phone to get that kind of information. Then we become a resource.

For example, on the Firestone tire question, we said if people in Ontario wanted to phone the centre we would give them up-to-date information and we'd also keep a registry. We've kept a registry also of people who were phoning on things like hair dryers. We said, "As the tests come out, we will make sure you get the information." We've kept registries from other federal jurisdictions in that area.

Mr. Breithaupt: Is that how you would cover the microwave oven circumstance?

Ms. Jacobsen: That's right. As soon as something comes out as an issue, we then flag it immediately to the centre. We collect the data. It works, because the day anything comes out the phones in the centre just ring off the hook.

Mr. Breithaupt Thank you very much. Those comments were very helpful.

Mr. M. N. Davison: Is that in response to Mr. Breithaupt's question about the Quebec model?

Ms. Jacobsen: Yes. The Quebec model is the two per cent tax on advertising. They have an agreement that that tax will be spent entirely on educational programs. That's where they get the revenue to do many of the things they're doing.

Mr. M. N. Davison: Is the ministry going to respond further to the other part of Mr. Breithaupt's questions about the Quebec model whereby they investigate products through labs and publish the reports?

Mr. Breithaupt: I was only interested in that point as to your general view of the direction in which they're heading and whether you had intentions to consider going into that line of operation or just what your general plans were.

Hon. Mr. Drea: This was discussed somewhat thoroughly at the meeting of ministers in Newfoundland. I take it what you're thinking about is the magazine that is published.

Mr. M. N. Davison: Protect Yourself.

Hon. Mr. Drea: Yes, they were there. It's a very good magazine. Actually I don't think that magazine purports to be the absolute in terms of testing and so on although it's considered very good. But the discussion there centred on what was going to be the role of the Department of Consumer and Corporate Affairs in Ottawa. Where were they going?

It was the consensus of the provinces—with the exception of Quebec, which had some minor diifferences in it, some of which were political, to be quite blunt about it—that the federal government, by withdrawing from direct enforcement in the marketplace in provinces where there are adequate resources for enforcement in the marketplace and continuing in provinces where there wasn't that type of resource, should put its priority for those resources into product safety testing, product testing and so on.

That was pretty well the consensus, as I say, with the exception of Quebec in some minor areas. Quebec wanted the money from the federal government to do it itself—but I don't really think that's germane.

Mr. Breithaupt: The normal approach in most operations that province has.

Hon. Mr. Drea: Yes. One of the things that came out of that meeting was that the federal ministry is no longer going to enter into multilateral agreements with the provinces, or multilateral programs, even within its own jurisdiction, in provinces. The approach is going to be a bilateral type of arrangement.

I was at these before, and one of the difficulties over the last few years was that there was an insistence—and I must say quite frankly it never came from the ministers I knew, either Mr. Allmand or Mr. Abbott—an intergovernmental insistence, by the federal government, that it had to be straight across or nothing. It eventually got down to two thirds of the provinces, but it had to include either Ontario or Quebec on the population thing.

The difficulty in all of these things, Mr. Breithaupt, quite often was that in order to develop a program that could meet the needs of provinces that didn't have resources—and it wasn't always the maritime provinces either, because the question was raised by Saskatchewan, just in terms of budgetary resources—many of the programs were either watered down so they could be compatible to the resources in ancillary fields of the provinces, or they were put up so high that the bulk of the provinces simply said they didn't have the resources to complement this program. Now they're going to enter into a bilateral arrangement, which I think is very significant and important.

I have this admonition: I think this type of thing is needed, primarily because most of the testing standards that we have are from the United States, since the big laboratories are there and so on. The product is tested, but quite often it's tested perhaps not to the standard that we particularly like, even where the federal government does it: the automobile standards—a great number of these—right on down to ordinary consumer products.

I want to see if this new approach, and some of those resources, can be put into this type of thing. I think standards and testing, on a very practical basis, should be done nationally. We don't want to fragment a market.

Quebec has gone into it for a very specialized reason, and I commend them for it. But if Ontario went into it, I think the difficulty would be that we have set up almost two standards in Canada, the uniform standard in many areas, which is either federal or interprovincial and federal. There is at least

one standard for the 10 provinces and the Yukon. So I would like to see, in the short term, exactly what the federal government is going to do there.

As I said in the beginning, the admonition is that if they are not going into this area, then we may have to—but it would be done very reluctantly. Not that I don't think it should be done. For instance, we have had stuffed articles. I think this is a standard both in terms of quality, design, safety, and health, of these articles, which used to be under the Ministry of Health. Now they're over with us. We are literally setting, arbitrarily, the standard for all of Canada, because most stuffed articles are imported. When they are imported for distribution across Canada, we do the inspection. They must meet our standards. That's working out very well.

I don't mind the resources being allocated here. We're doing a job for nine other provinces because it's practical. But I would not like to get into the situation where, on stuffed articles, say, we were inspecting to the Ontario standards—which are quite high—and we had a significant protest from another province that has this type of thing and want the right to inspect. The importer would say, "I do the bulk of my business in Ontario and Quebec, or Ontario and somewhere else. I'm only meeting this standard. I'm simply not going to sell in your province."

On the other hand, if somebody decided that, technically, they would import through a province with a lower standard, we would be in a position to say, "We're going to withhold you from the market." In the Canadian market this is deadly.

The American experience is, and I think quite rightly so, the Federal Trade Commission, the consumer product safety testing, et cetera. They don't have the constitutional hangup or anything else, because they have gone on a national standard.

Mr. Breithaupt They have been able to do that through interstate commerce, and with so many ports of entry.

Hon. Mr. Drea: That's right. But it is then on the basis of the United States; enormous as that market may seem to us, they don't want to fragment that one.

I don't think we want to be in a position, particularly for the Canadian manufacturer—I'm not talking about the multinational but about a real Canadian manufacturer—of being faced with those imposing standards.

For instance, there was a gentleman here from Australia who was looking at standards and so forth; I can give you an idea of the costs. I forget which state in Australia he was from, but he was a very distinguished solicitor; he wasn't a minister. He had travelled quite a bit. He conveyed to us, on the subject of different types of standards, that some of the studies he had done here and in the United States showed that in certain things like product liability the cost increased a thousandfold in Canada with a fragmented system vis-à-vis a normal increase on a national system.

Really we want to see what they are going to do in this area, with the new allocation of resources in the federal field. I can rattle off a number of big-ticket items that should be tested, evaluated, and a distinctively Canadian standard or quality control implemented. Then we go on down into the other areas.

Mr. Chairman: Supplementary; Mr. Davison.

Mr. M. N. Davison: I heard Mr. Breithaupt ask his question in a slightly different way. It's obviously a question of interpretation. I didn't think he was so much concerned about the standards in terms of safety, for example, and whether or not you're going to ban something, as he was about standards, investigations or reports for consumer interest to be of assistance in making purchases.

For example, the Quebec scheme is a fairly modest one. I think it started with only a $100,000 budget. They don't do a lot of tests. They don't test everything under the sun. The interesting one was the detergent one, where they got Oxydol and 21 other brands, and found that Oxydol was just all media advertising hype. It wasn't at all what it said it was, and consumers were paying more to cover the cost of the advertising. They weren't getting anything special.

Then they have this fairly modest little publication that's available free to consumers. It's modest in terms of cost that consumers can get. I agree that would be great if the federal government were doing it, but they haven't done it. I don't know if it's going to happen tomorrow. I think there's something useful there. I think maybe you should take another look at that in the ministry.

Maybe there's something very worthwhile in the Quebec plan and, if the feds don't move in the next six months on a similar scheme, this ministry—especially with the consumer information centre—should come up with that so that consumers may get that. You may only test five, six, 10, 12 products a year. But I think it would still be useful

to consumers in the province of Ontario to know if and when there's a consumer ripoff.

It comes into what Mr. Swart was saying about prices. That's an area, for example, where you can talk about prices. You're not rolling anything back. You're just telling the truth, saying that Oxydol may well be a ripoff, because you're spending all this money on advertising, and they're not giving you what they say they're giving you.

I suspect that would have the effect of rolling back prices, because people would go to store brands and say: "Well, my goodness, I can buy the Dominion Stores brand for half the price. I'm going to do this."

[4:00]

Hon. Mr. Drea: Or improving the product. I just wanted to bring the safety thing in because, with a great number of products, safety is absolutely paramount. You talked about ticket items.

One of the interesting things that I found in their publication—and I don't know what you put this into but I was extremely interested in it for rather obvious reasons—was called How To Rent Your First Apartment. I found, and I think you would have probably found, that it had some interest for the same reason. It was extremely informative, and nonpartisan. It was just straightforward.

There was another article in there on records vis-à-vis tapes. It wasn't so much on the quality of them; it was just some admonitions—and I never knew this, probably because I don't buy them—that one doesn't last as long as the other.

Mr. M. N. Davison: When we do the estimates next year, I hope the feds will have a program in place or we'll have moved along and developed our own.

Hon. Mr. Drea: That's what I said. I don't want to set time limits on the federal government, but it was my understanding that they were proceeding into this. I told Mr. Breithaupt that I had an admonition there that it wasn't going to be wait-and-see. This seemed to be the thrust of their thing. If it's coming, fine, because you don't want to duplicate. I think probably the best thing that ever happened at that conference, was that there was a very binding agreement that nobody is going to duplicate any more, because the resources just really aren't there.

There are things that the federal government can pull out of in Ontario and Mr. Robbins in Saskatchewan desperately could use those resources because he has a different problem in terms of geography. I think that's very important. The point was that, dollar for dollar, the federal government probably could do better in certain provinces than it could do here, where the problem is high price and high cost. That money would then be utilized in this overall area. I'm hopeful that that could be done. If it is not being done, I would say to you there is another course. I think this is coming along. I know it occurs in the Toronto Star. I don't know how many others are doing it, but the consumer columns are now going to laboratories and testing. That certainly is a very valuable public service. It doesn't replace the need for—

Mr. M. N. Davison: You don't want to further privatize consumer protection. It is in such a backward state as it is.

Hon. Mr. Drea: Not every newspaper or part of the media in Ontario has the resources of the Toronto Star to do it. Really I don't think that type—

Mr. M. N. Davison: We saw their editorial policy at election time.

Hon. Mr. Drea: I don't know about that. All I'm saying is that I'm trying to get away from this thing. If you're in Toronto, Hamilton or Ottawa—and this is a concern of Mr. Lawrence too—you're very well-served, but then there is a diminishing level of service. The same thing is true if you're in Saskatchewan. The only reason I mentioned Saskatchewan is that Mr. Robbins talked in great length about it. Saskatoon and Regina are okay, but then it diminishes down.

So we will keep an eye on it for you and see what they're doing in this field. Mind you, I would say to you that while I don't know what the Treasurer is thinking on it I have no ideas about an advertising tax or what have you. I'm not sure whether Quebec introduced that tax on media advertising to do this or if it's to fund it or what. I know Newfoundland introduced one and they're not doing it. I don't know that a tax on advertising is the proper way to fund it. The Treasurer has tax prerogatives, but I'm not sure that's the way to fund it.

I think that if you're going to do things you should do them out of the normal budget and allocate your resources. Does that answer all of your questions?

Mr. Breithaupt: That's just fine. I appreciate the information. You can turn your direction to Mr. Swart's earlier comments.

Hon. Mr. Drea: The only thing I wanted to talk about was that there was a general description by Mr. Swart, which I suppose I can synthesize, about dwelling upon what appeared to be very sizeable and significant profits by industries.

I would just like to point out that the figures that were given—I'm not questioning these—didn't put certain industries in their proper perspective, for instance, in the food industry. This is all from Statistics Canada, the after tax profits. In the food industry this year the profits are only 0.7 per cent up, $1 million; from $137 million to $138 million.

The question was raised about paper and the allied industries and so forth—yes, the profits are up. The percentage change is up 106 per cent, but on four years their profits are still down 14.1 per cent below what they were four years ago. I have concerns about profiteering or excess profits, but in electrical products the profits are up 116 per cent on the one year. This is on the second quarter of 1978 to the second quarter of 1979. Yet over the four-year span their profits are still down 15.7 per cent. Some of these are really only coming back in.

Chemicals were raised yesterday. Chemicals, it's quite true, are up 27.7 per cent on the second quarter of 1978 over the second quarter of 1979. Yet on the average of the four years they're still down 16.6 per cent.

I think what I'm saying in terms of this is that you have to look at the individual industry. I don't think you can lump them in together. I suppose we could debate here all day at what particular time you take the figures. There's no significance in what I've taken here. You can take it in either statistics, which are interesting, but for instance if you took a whole industry—food, beverage and distillery, which is the federal government's grouping—their profits on the one-year change are only 7.8, yet they're up 57 per cent over four years. The reason for that is distillery profits, at least in dollars, are up 93.8 per cent. A lot of that is inflation, et cetera.

By the same token, if you want to talk dollars, probably the most horrendous increases in terms of percentage have occurred in the leather industry. You can't buy leather any more. There's a clothier who writes in the Globe and Mail that you literally can't even buy leather in Italy. It's gone completely out of whack. The profits in leather, there's no question about it, are up 300 per cent. But what are they up from? From $3 million to $12 million. It's a very limited field.

On the other hand, primary metals are up 33.5 per cent over that four-year period of time. Yet I can recall that when the Inco strike was on, I think every member in the Legislature, regardless of his persuasion, was hoping the spot metal price on the New York commodities market would go up because it would have facilitated a settlement there, at least the movement of the product. I think there has to be an eye kept on profit, but the question on it really is, it is a percentage of what?

I'm prohibited by law from being in the pulp and paper stocks. I never was, as I said yesterday. But based upon the earnings and so on and so forth, I think if I was handling an estate I would want to wait another year to see if all of this was going to keep on.

By the same token, because of fashion or or a shortage or whatever it is that's happening to hides, leather in a percentage looks terrific, but I don't think I'd want to get into that one. The dollar isn't there.

I have no quarrel with anybody wanting to raise the statistics at any time, but I think I equally have the right to interpret them to be used accurately in the way that I do. We have, for instance, things that really surprise me. I would have thought that in chemicals, particularly because of energy and a number of other things, the prices would have been doing quite well. Yet if you look at that change since 1975, in percentages it's down. I think you would have a hard time convincing a layman that the profits really aren't up along with the prices but you do have to go back a certain period of time.

Also, I think one of the things you have to look at in terms of profits is the ability of the industry to pay labour settlements. I don't think anybody disagrees with the concept that people in the workplace, whether they are white collar or blue collar, are entitled to a just and sufficient standard of living.

It was raised yesterday, if I recall correctly, that the average weekly earnings, or whatever it was, were lagging somewhat behind the consumer price index. In the month of July they caught up because they were going up at 9.1 per cent, the consumer price index was 8.1.

I would really want to take a look to see which labour settlements were negotiated and what they were including in there. Is July a significant month because of low increases and so on or is there a trend going? I want to make it very plain that I have a basic disagreement. I don't believe in a price-controlled, in-isolation marketplace. I just don't think it works. We have had controlled economies in the world that haven't worked. There have been times when we had wage and price controls in this country. I'd like to see an economic analysis of what really happened. Did they really do any good in the long term? I know that

people on the one hand were somewhat happy about the price increase, but then I can remember my telephones ringing off the hook from working people whose wage increase, which they thought was quite nominal, had been rolled back.

Incidentally, clothing is up 233.3 per cent. With clothing, part of the problem is that we've gradually been getting into import replacement. We haven't been taking cheap clothing, et cetera, from overseas. There has been a considerable effort I think to try to make the clothing industry, in all of its aspects, more profitable. But sure, with government policy at the federal level, you could probably cut the profit in the clothing industry enormously; but do you really want to do it? I don't. I think that you look for individual profiteering, for individual excesses; and unless what appears to be that can be justified, I think at that point, rather than doing all the statistics and all the dollar value and everything else, that you really expect the company, or the group industry or whatever you want to call it, to justify itself in the marketplace. If it can't justify itself in the marketplace, and it is giving the appearance that it couldn't care less and is profiteering, then obviously the consumer will react.

I just don't think that bringing in, first of all, price roll-backs, is the answer, even if the opinion Mr. Swart gave yesterday that we did have constitutional power to do something is correct. What in the world could I do about a price that is established in Montreal or a price that is established in Winnipeg? Indeed, I draw your attention—I don't want to get into the legalisms of it—to the fact that the Anti-Inflaion Board legislation was emergency legislation.

Mr. Renwick: It required the consent of this assembly to pass it.

Hon. Mr. Drea: Pardon?

Mr. Renwick: It required the consent of this government to pass it, eventually.

Hon. Mr. Drea: I just don't see, Mr. Renwick, where I have the constitutional authority to roll back a price by a producer who is not resident in this province as a province alone.

Mr. Renwick: You've got the control of the price of goods sold to a person in Ontario for delivery in Ontario. That's why we had to have legislative authority for the AIB.

Hon. Mr. Drea: Mr. Renwick, my advice, and not being a solicitor, I have to rely upon advice, and my advice is—

Mr. Renwick: That's what you say every time that I speak but I'm here as a member of the assembly, not as a lawyer. You were here when the AIB legislation was passed. You remember the mistakes the government made. You remember you had to come back to the assembly for authority. You must therefore have some constitutional authority about prices. You find out. You've got the staff of lawyers if you need legal advice. Get it.

[4:30]

Hon. Mr. Drea: That's exactly what I've done, Mr. Renwick. I've asked them.

Mr. Renwick: Get it, but don't say that you don't have any constitutional authority to regulate anything; you do so.

Hon. Mr. Drea: If you'll forgive me, I didn't say no constitutional authority to regulate.

Mr. Renwick: What is your constitutional authority then?

Hon. Mr. Drea: I have asked about it and I have been advised. I'm not saying anything or making any remarks about solititors. I respect your opinion as a solicitor but I do not always agree with you.

Mr. Renwick: I don't want you to respect my opinion; I want you to exercise your authority.

Hon. Mr. Drea: I have gone and asked for legal advice and that is the advice that I have received.

Mr. Renwick: That you have no authority over prices in Ontario?

Hon. Mr. Drea: No, sir, I didn't say that.

Mr. Renwick: Well, what authority do you have then?

Hon. Mr. Drea: I have no authority to roll back prices in Ontario.

Mr. Renwick: You have a written legal opinion from the government lawyers that you have no authority to roll back prices in Ontario?

Hon. Mr. Drea: Excuse me, I do not have a written opinion. I have consulted my solicitors. I have been advised—

Mr. Renwick: Get an opinion, then, because you're responsible for it.

Hon. Mr. Drea: All right, I will do that and file it with the committee.

Mr. Renwick: I've listened to this minister pretend every time he's asked this question that he's not a lawyer. I know he's not a lawyer. Each time he says: "I'm not a lawyer," and so on, "but I have real questions about this." If you've got real questions, ask the lawyers who advise you and get it in writing because you've got legislative author-

ity and you've got the power, if you want to use it to affect prices in the province of Ontario. If you don't want to use it, that's your decision, but don't pretend that it's such a fuzzy world that you as a minister can escape your responsibility to monitor the protection of consumers on prices in the province.

Hon. Mr. Drea: I'm not pretending anything. I want to make it clear, because it has escaped everybody, that I have asked legal advice. You've told me to get it in writing. All right, I will get it in writing. I said I would table it here. I'm not pretending anything. I'm not trying to be fuzzy nor am I trying to be anything else. The reason I say that I'm not a solicitor is that I want to make it very plain that it is not my opinion, and it is not anything. I have gone, as any layman should do when he needs legal advice, to a proper solicitor. That's what I have done. As I say, since you want it in writing, I will get it in writing. Presumably, you want it from the Attorney General.

Mr. Renwick: I don't have to speak for my colleague; my colleague speaks for himself. My colleague has been endeavouring to put the clearest possible, simplest case to you about your responsibility with respect to prices. If you want to make a decision that a price of a given product in Ontario is satisfactory to you and that the consumer doesn't need any protection, then that's fine. You can have your view—you're the minister of the crown; we can have our view on it Right?

Hon. Mr. Drea: That's what I said before.

Mr. Renwick: In order to attempt to do that, my colleague spoke about a product in which the raw materials are in Ontario, the plant is in Ontario, the capital is in Ontario, the labour is in Ontario and the goods are sold in Ontario and in the United States.

Hon. Mr. Drea: Yes.

Mr. Renwick: He has been trying to say to you very clearly that the Canadian price has reflected a devaluation of approximately 15 per cent of the Canadian dollar below the American dollar and that the Ontario consumer of that product has had to pay something in the neighbourhood of 15 per cent higher than he should. He has been making that point, and that's a simple point.

Hon. Mr. Drea: That's not what I was talking about here. It goes far beyond that level.

Mr. Renwick: You're not far beyond it because my colleague has been endeavouring to show you all of the reasons behind his request to you and he still has not got, so far as I understand, in the kind of product that he's spoken about, an answer from you about why the price in Ontario of an Ontario totally made and produced product is floating at the United States price when the Canadian dollar is 15 per cent lower. I think that's a very simple situation.

Hon. Mr. Drea: I know it's a very simple situation. He has received a reply from me or at least a reply has been sent. I just want to correct you on one matter. When you say the raw material is here, which one are you talking about? If you are talking about detergents, not all of the raw materials are from here; some of them are offshore.

Mr. Swart: Toilet tissue.

Hon. Mr. Drea: He has received replies on those. He has received replies and on top of that—

Mr. Renwick: There is a very real dispute about the reply. Your reply was an attack on my colleague. Your reply wasn't an answer to the question.

Hon. Mr. Drea: I would think it was a very detailed answer, Mr. Renwick.

Mr. M. N. Davison: Which ended with the conclusion that he should apologize to the company.

Hon. Mr. Drea: On the basis of the figures submitted to us by the company.

Mr. M. N. Davison: Even in spite of the fact that we have evidence from the company.

Hon. Mr. Drea: Well, we may have some evidence tomorrow; apparently the information—

Mr. Swart: I had the letter read to me.

Mr. Renwick: Mr. Minister, you don't seem to understand. We're not here making a submission to you as a referee. You're not taking my colleague's information and that evidence or information from the company, and then sitting as a referee. That's not what we are asking you to do. We are asking you to assert your authority as a minister of the crown to protect the consumers. If my colleague's information is incorrect, I expect you to produce the information that you're satisfied with as being accurate.

Hon. Mr. Drea: That's correct.

Mr. Renwick: All right. Take that specific case, withdraw your insulting letter to my colleague, and tell me that you and your ministry officials have investigated that price, and that that price is justified to the consumers in Ontario. Then my colleague can say

that the minister has exercised his authority. He's made his decisions.

You seem to think you're a referee, or at the very most, a sidesman for the companies in an issue such as this.

Hon. Mr. Drea: Mr. Renwick, I'm not a referee. This is a very adversarial proceeding. Mr. Swart, in the context of this, brought forward certain allegations. On the basis of the information that I had received, I replied to him. It's an adversarial proceeding. He asked me to exercise my authority. He made certain remarks.

Mr. Renwick: Who are the adversaries?

Hon. Mr. Drea: The adversaries are Mr. Swart and I. Mr. Swart's letter—

Mr. Renwick: He's not asking you as an adversary. He's asking you to exercise your authority. What are the facts?

Hon. Mr. Drea: Yes, and prior to that, in his letter, if I recall it correctly, and I'm sure he will recall this, in every one of his letters to me, and on every one of these products, he accuses me of not acting in a way that he would like. I reply to him. I tell him that I have looked at it, and I am going to act in accordance with the letter.

In terms of what he has brought forward today, Mr. Renwick, I made it very clear that I'm going back, that the information that was conveyed to me was why I wrote the letter. I'm going back, I'm going to check every single bit of that information, we will bring it in tomorrow, and if we are wrong—he asked me, "If you are wrong, will you admit it?" I said, "I always do." If I am right, I will stand by what I say. I don't think we can have anything fairer than that.

Mr. Renwick: I'm not asking you to be fair. I just think that when you receive that kind of statement from a colleague of mine about a question such as that, it is your obligation to investigate and determine yourself.

Hon. Mr. Drea: Mr. Renwick, that is precisely what I did.

Mr. Renwick: You didn't. You wrote a couple of letters to the company, the information came back to you, and then you castigated my colleague.

Hon. Mr. Drea: Mr. Renwick, I did not write a couple of letters. I directed my staff to go out and investigate. A number of people worked on it, a number of people on my staff—or the staff of the ministry, to put it in proper perspective—prepared that reply. It was based upon information that they received. Because Mr. Swart has brought forward information, that he says the information that we received, or that we transmitted to him, was incorrect. I said, some time ago, that we would look into it immediately, that I would bring forward the sources of all of the information, how we obtained it. We would table it here tomorrow.

Mr. Renwick: Did you instruct any of the members of your staff to consult with my colleague, and to discuss with him the basis on which his letter was written to you, so that they would examine what it was, and then go out and try to confirm it?

Hon. Mr. Drea: Mr. Renwick, the information that was in the letter of Mr. Swart, as it always is, was quite detailed. I hand it to my staff, and I say to investigate it and to investigate it very fully.

Mr. Renwick: Did you get a report?

Hon. Mr. Drea: Yes, I did.

Mr. Renwick: The report that you received—not something from the company, but the report from your staff.

Hon. Mr. Drea: That is precisely the letter. The contents and the information in the letter—

Mr. Renwick: Why do we have to wait till tomorrow? Your staff has been here.

Hon. Mr. Drea: Yes, they're here but they don't have that. I want to check the information—

Mr. Renwick: The information's across the street, isn't it? Let's get it. Why wait till tomorrow?

Hon. Mr. Drea: I'm trying to be helpful to the committee so we can go on today. If you want me to get it this afternoon I'm perfectly prepared to do it.

Mr. Renwick: Let's get it then.

Mr. Swart: I just want to say—

Mr. Chairman: Excuse me, we have had a small breakdown and I am going to ask that we temporarily adjourn.

The committee recessed at 4:26 p.m. and resumed at 4:39 p.m. in committee room No. 2.

On resumption:

Mr. Chairman: There was a tremendous amount of planning by the clerk and me to make sure that we got that Amethyst Room for the justice committee. Even the best amount of planning, conniving, caucusing can sometimes be fouled up. That's politics for you.

Mr. Wildman: It was too elaborate for us over there anyway.

Mr. Chairman: This particular room, at least, is bright. Would you start over again, Mr. Swart?

Mr. Swart: I will start over again. What I have to say is largely pursuant to what my colleague from Riverdale has said.

I wanted to say categorically that I've never been contacted by anybody from your ministry to get any information from me at all with regard to any of the accusations I have made that we're paying too much for many of our products in this province.

Hon. Mr. Drea: Mr. Swart, if I could say something, I never suggested that you had. I said that you sent over your things in a detailed way. One of my problems and probably why you were not consulted is that you write an open letter, you announce it, it appears in the media, then I get the letter—and I have said this to you on a few occasions, that it's probably beyond your control that I get it five or six days later.

On the basis of the particular question that is asked of me as the minister, I put people out to get a total reply to you and I communicate it again. You have never contacted me, except once, about any of these things. The one time that you did we did it in my office, so that it's all out, it's three or four days out in the media. I just say that I haven't received the submission, we wait until we receive it. It's always detailed. I have never instructed people to contact you or not to contact you. I have asked for a very thorough report on it and in each and every case I think I have received it.

Mr. Swart: I still want to pursue this a little further and I want to speak categorically. At no time have I ever released a letter to the press until that letter is either delivered to your office or in the mail to you.

Hon. Mr. Drea: Mr. Swart, in fairness, I will show each and every one of the date stamps that appear on the mail to me. Whatever the problem is, and I said it was beyond your control, it doesn't physically appear in the ministry. I don't think you would like me to start looking at things on the basis of a synthesized report in the press. It's that simple.

Mr. Swart: Mr. Chairman, I would also point out that on the average it's six weeks before I get a reply back and during that period of time it would seem to me the minister would have a full opportunity to have had somebody call me and get the information.

Mr. Chairman, I also want if I may—

Mr. Chairman: I would like to remind members of the committee that we agreed to a schedule and I would like to get on to the next vote as soon as I can. Mr. Swart, I will allow you one more question and then I will allow Mr. Wildman one question and we will then move on to the next vote.

Mr. Swart: Can I use it as a very short comment rather than a question, because I do wish to reply?

Mr. Chairman: Fine, Mr. Swart.

Mr. Swart: I would just like to say that the only response I have ever had from the ministry is a report from the company. It is not a question of whether it was you or the minister before you, it is a question of approaching the company, never getting an independent survey or investigation and that, of course, is exactly what I am asking for.

In this letter dated August 8, to the Premier, you inferred that there were some, if I may use the word, snarky comments on that. You read that over and there are not; it could not have been a more gentlemanly letter. It says:

"On behalf of my party I am calling on you to have a thorough investigation made into this matter and to take the necessary measures to stop it. It is reasonable and desirable that the federal government should be involved also in any such investigation. However, if it fails to act, your government, with constitutional power over retail prices, has sufficient clout to stop this price gouging."

I just want finally to say this, Mr. Chairman, that doing these investigations on my own, there is some possibility of error, but my investigations today I say have been more accurate than those done by the ministry.

I refer to the minister saying, when I raise the issue about printing the two-quart jugs, that they could not be printed in the metric as well as the imperial, they could not still put imperial on. He found out that was wrong; now he has made an error in this. I suggest that he do the investigation and do an independent investigation instead of just being a message boy to the companies.

Hon. Mr. Drea: I'm not a message boy for any companies, Mr. Swart, and I want to put one thing on the line. I have every confidence in my staff, they act quite independently, they look for the truth or whatever you want of the matter and that is what is brought back to me. If I feel there are questions that you have raised that are left unanswered, on more than one occasion I have directed them back saying that those aren't minor considerations and I want a rather detailed submission to that. I have every faith in the world in my staff, Mr.

Swart, and I am not going to change that view one iota.

Mr. Wildman: Mr. Chairman, I realize your time constraints. I just want to raise one important question with regard to the organization of the ministry. I know that the minister knows what I am asking so I am sure he can give me a reply.

[4:45]

The ministry used to have an office in Sault Ste. Marie to serve Sault Ste. Marie and Algoma district. I understand that because there weren't enough requests for assistance in terms of business practices, problems consumers were having with businesses and so on, the ministry decided to discontinue that office, to close it out, and the Sault and Algoma district would then be served from the Sudbury office.

I just want to inform the minister that since that change has taken place, I have received a number of complaints about the fact that the office is no longer open in Sault Ste. Marie, plus my constituency office has had a large increase in questions from consumers about business practices, difficulties with businesses—whether it be faulty installation of siding on houses, whether it be questionable practices with regard to sales and installation of swimming pools in Sault Ste. Marie, or whether it be construction practices, quality construction in OHRP contracts, and a myriad of others.

Also, the Sault Ste. Marie Chamber of Commerce has raised serious questions about the closure of the office in the Sault and indicated that the number of complaints it is receiving from consumers has increased substantially since the office was closed.

My questions are: what were the reasons for the closure, what was the use of the offices, and could the minister look at the situation in consultation with the chamber of commerce in the Sault and perhaps consider a reopening or more frequent visits from the Sudbury office or whatever?

Hon. Mr. Drea: Mr. Wildman, the decision there was, we were not able to provide a full service in that office. It was a specialized office. There was a particular demand in northwestern Ontario for more resources and it was a question of not being able to do the frequency of the trip and so forth; it is a little different area.

We didn't close the office in the sense of—yes, it was, sure, but what we did was we made arrangements, and I consulted with the consumers' association up there before we did it and I told them what I was going to do.

We decided to use the resources of the northern affairs officers as a primary source. If there was a detailed or specific problem we would immediately send in a specialist in that area; in other words, if it was automobile or something else.

The alternative that was put to us was that we could put a telephone recording device in there and once or twice a week somebody would drive over from Sudbury. I just wouldn't go for that because I have had experience in the field, as you know, and people do have some difficulty in communicating from time to time and they are not very receptive to a phone message. Besides, it is two or three days and so forth.

This is a distinctively northern model we are trying to work on, to use that northern affairs officer, because he or she is always available to go into the situation immediately and they can take information for us at a very primary level. So the specialist, whether it is in automobile or building repairs or what have you, can decide if it is a matter that should be investigated immediately therein. If it is a question of someone's concern about something, the northern affairs officer generally can handle it.

It was my impression, and I have been monitoring it, that this system had provided an expanded service not just in the Sault but throughout the whole Algoma area. As I say, we were trying to develop, and still are, a very distinctively northern Ontario model. You can't superimpose what is done in southern Ontario in the north and say, well, there is some geographical distance. There is a lot more than that. It was my impression it was doing well.

Of course, we will talk to the chamber of commerce. Perhaps one of the things is that even though we have communicated—I did this at the time the CAC convention was in the Sault and I was asked this on the floor—we explained it to them, particularly in terms of the northern model which they were very interested in, and told them we were doing this elsewhere. The CAC thought this would be a very worthwhile pursuit.

Yes, I am always looking at it. It was my impression there was more access, particularly in the smaller communities throughout Algoma. I checked with Northern Affairs and that was the reason. It is a very specialized resource. I don't recall exactly what it was, whether it was in the automobile area or something else, but the person there also has the function of a general purpose officer, and primarily it is his responsibility. Half the time he was gone from Sault Ste. Marie investigating a particular matter so that it was a

phone recording once again. We have done this all across the north with the northern affairs offices. On the basis of the information that I had received, it is working very well.

Mr. Wildman: I won't prolong this except to say that the officer that you had there—I believe his name was Mr. Young—did, in my experience, carry out a very useful and important function. I felt it was regrettable when he left. I understand what you are saying in terms of service to the smaller communities and the availability of northern affairs officers, and I think it is a good idea frankly.

Hon. Mr. Drea: We thought it would work in Sault Ste. Marie as well.

Mr. Wildman: Over the last couple of weeks, the chamber of commerce there has raised a concern about the increase in inquiries it has had, and my own constitutency office over the summer had contacted Sudbury a number of times as an intermediary because people were phoning us because they knew the officer wasn't there and they weren't there and they weren't sure how to get in touch with him.

Hon. Mr. Drea: At any time—and I have encouraged this with members in constituency offices—by all means take the primary thing and get the information, rather than saying that it has to come to our office, because speed is of some essence. In Mr. Young's case, because of the territory and the specialized work as well as general purpose work he did, quite often he was not in that office.

We thought we were providing a much more accessible form of primary service. There is no question on the specialized things, just as virtually everywhere in Ontario a specialist, when it merits it, has to be sent in because the scope is just so wide.

Mr. Wildman: Then you will be in touch with the chamber?

Hon. Mr. Drea: Yes.

Mr. Wildman: Thank you.

Vote 1501 agreed to.

On vote 1502, commercial standards program:

Mr. Chairman: As was agreed yesterday, we will be grouping the next four items under 1502: securities, pension plans, financial institutions and the motor vehicle accident claims fund. I realize this may mean that we will have a steady track of staff from the gallery to the minister, but I think it is easier to deal with them as a block because there may be some questions that overlap.

Mr. Breithaupt: I am quite happy to keep my remarks in the order they come up so that people might not have to run back and forth, but that is up to all the members. I would like to address my remarks initially to the securities item. I realize Mr. Baillie is not with us today, but I do think it is an opportunity, since this may be the last opportunity—

Mr. Renwick: It's the next best thing.

Mr. Breithaupt: That may well be, but this may be our only opportunity really before Mr. Baillie's term with the securities commission ends to comment upon the activities to which he has given important leadership over these past two years. Certainly, the involvement that he has had has been one that has not only been important to the passage of the new securities legislation in this province last year, but in the ongoing responsibilities which he has accepted in dealing with the particular areas of the market to which he has turned his attention.

The matter of going private and the matter of minority rights for shareholders are both subjects that have been much influenced by the activity and involvement which he has had. I would certainly want to take this opportunity to recognize that involvement because by the time we look at these estimates in another year perhaps he will no longer have this important responsibility.

There is one area I would like to talk about with respect to the securities commission.

Hon. Mr. Drea: If I may just say something for a moment, just as an aside, I tried my best to woo Mr. Baillie over here because it would have been his last occasion. I presumed those with a specialized interest like yourself and some other members in the securities field might want to say something; I didn't tell him why we wanted to woo him over here.

While Mr. Baillie has only to the end of the year left, he has undertaken a very arduous schedule. Mr. Baillie may like to refer to himself as "phasing out for a new chairman" but I will tell you his schedule is as if he was a new chairman. So I think that your remarks and perhaps those of the rest of the committee in regard to his sense of public duty are more than justified. He has undertaken in the last couple of months some very arduous assignments that he will be very hard pressed to complete before he returns to private practice.

Mr. Renwick: Mr. Chairman, perhaps I could just add a brief word about Mr. Baillie because of the lengthy association we had in the hearings with respect to the Securities Act. In my judgement the decision to attract to the chairmanship of the commission a man such as Mr. Baillie for a limited term was a wise experiment, and I think it was fully justified in the case of Mr. Baillie. I think he brought not only the knowledge but the capacity for objective viewing of the problems of the securities market, together with tremendous energy, to the work of the commission at a very important transitional time in finally getting that new Securities Act promulgated, and all of the work with respect to the regulations in connection with it.

I can say personally that I enjoyed very much my association in the committee work with him and those who were associated with him. I enjoyed the candour of his comments about matters related to the securities industry. From my point of view, this is one of the few commissions where I feel very strongly about the revolving-door nature of that chairmanship, provided you can attract from the industry people of the calibre of Mr. Baillie.

I think the whole dynamics of the securities industry requires that there be a revolving-door view of the chairmanship's facility, provided again you can get the men of the calibre of Mr. Baillie who can bring that kind of objective non-vested-interest approach to the difficult questions of the sophisticated regulation of the securities markets in Ontario.

That, together with the work in connection with the introduction of the commodities bill, seemed to me to be two very important contributions. While much work had gone into it—I don't want to take away from the tremendous work done by members of the commission and others in the buildup of all that work—I think to have Mr. Baillie here at the culmination of it was of real assistance to the province.

Hon. Mr. Drea: Just to put it into perspective, there will be, as you know, an amendment to the Securities Act involving some draftsmanship. One minor problem did occur in another province which we want to correct and we will be putting it into the House hopefully this month. I certainly hope on that occasion that there is time—I will make sure that Mr. Baillie, notwithstanding his arduous schedule, is in attendance.

I think you have raised a very good point, Mr. Renwick. One of the difficulties today which a commission of that magnitude is that of attracting a chairman. I think it is going to be customary in the future that they will not want to give up permanently their chosen profession or their line of work or their particular specialty. They will be prepared to serve for a limited period of time with that very clear understanding.

[5:00]

I think it would be very difficult to attract someone of the calibre of Mr. Baillie. Of course when you have somebody that outstanding it always is, but certainly I would be hopeful that type of thing can come. The securities field is a constantly evolving one and I think that during his tenure, and Mr. Pattillo's tenure before him, things were accomplished.

You can go back over the select committee on company law, a great number of things—sure there was the buildup, but the difficulty—and I certainly recognize it in the previous term in that ministry—is that nothing was seeming to come to fruition. In his two years it has come to fruition.

Also I may say—and I think this is very important—the people in the securities field felt they had input. They didn't always agree but certainly they felt they were involved in the logic and so on of the decisions that were made. I think in a complex field like that it is not just the accomplishments but it is the thing out there.

One of the interesting things, and we can leave it with this, is on the regulations for the Securities Act. This is always a difficult area. There are professional or commercial seminars conducted, whatever you want to call them, on an act, but this time we had four seminars conducted by Mr. Baillie on the regulations. We had to have four. That was the interest in the regulations and that's a whole new departure.

Mr. Breithaupt: Mr. Chairman, the one theme I would like to deal with in our review of the securities field is the matter of penny stocks. I look back to the comments of Frank Miller when he was Minister of National Resources—they were quoted at a meeting in Montreal in June 1978—when he said, "I would like to see a revitalization of the popularity of the penny stocks prevalent during the early post-war years. Certainly such an atmosphere would benefit industry, Canada and the public."

That quotation I believe is something that is relevant today in Ontario. Not only is it important to our province but it's important as we develop the involvement of broker-dealer firms in the stock exchange.

There were once 200 broker-dealer firms dealing in the junior mines. Now I am told,

in an article in September, 1978, that only 13 remain. It is true that involving oneself in penny stocks may be like buying a lottery ticket on occasion, but surely there should be sufficient rules and opportunities for persons to get more involved in this opportunity.

In April 1976 the securities commission put into effect a revised policy, 3.02, governing the financing of junior mines. Its objective was to prevent any fraudulent or near-fraudulent promotion of mining issues in Ontario. But the effect, it would appear, has been a tremendous decline in the effective access to equity financing on the part of even the most honest, well-founded and well-managed junior enterprises.

The new requirements certainly succeeded in preventing fraudulent promotion of junior mining issues but along with it they appear as well to effectively close the equity market for most smaller companies. In response to the complaints from the major groups involving in mining and exploration a committee was set up to look at the review of that policy and a year later that revised policy was in turn revised.

Two research reports were done by the Minister of Natural Resources (Mr. Auld) to look at the role of smaller enterprise in Canada's mineral industry and the financing of those enterprises. But when those reports were completed, a discussion paper written up by the ministry and sent out for comment has really led to a sequence of events which have encouraged continuing decline in exploration and development activity.

In 1976 Canada's total production of non-fuel minerals was worth some $8 billion. Ontario's mines accounted for 28 per cent of that total and some 29,000 jobs were involved in Ontario. An additional 12,000 Ontario men and women were employed in smelters and refineries. The smaller enterprises seem to have been brought to a special efficiency in mineral exploration. Indeed, while the juniors spent only some 28 per cent of total funds between 1951 and 1974 on metallic mineral exploration in Ontario they were responsible for some 62 per cent of economic discoveries.

However, the share of total exploration spending which is attributable to the efforts of smaller enterprises has declined steadily since 1960. In 1960 it was 44 per cent; by 1974 it had dropped to 18 per cent. It certainly is a sad state for the industry.

At the most recent conference of junior mines held earlier this fall it was agreed that there was no lack of capital for the later stages of mining projects, but risk capital remains extremely difficult to obtain. I appreciate there was a need to prevent fraudulent promotion, but the present circumstances, it would appear, mean that the amount of risk working capital that has to be raised—the half-million-dollar figure basically—before they can be listed on the Toronto Stock Exchange tends to eliminate the small explorers. That, I think, is important.

In the recent press we've read that British Columbia is planning a two-tier securities rule. I think this is something that may well be worthy of review by Ontario. The onerous requirements would not be required for junior companies and expensive prospectuses and records of earnings would, of course, not be there because most of the companies involved would not have them.

This results, obviously, from this article from the Globe and Mail of October 4, in another interesting fact, which is that British Columbia is going to develop a securities commission. That's probably a pretty good idea. We're clearly ahead of them on that field. This idea of securities regulations with some break for the junior mining need, may be worthwhile.

Before I came into the estimates committee today, I saw, in today's issue of the Financial Post, one article which is headed, "BC Act Tailored to Fit," which deals with this two-tier system, and an article on the other side of the page, "Penny Mines Action Jumping Out West." Just one brief comment from that: "Some changes are evident in where the penny game is played. The Toronto and Montreal stock exchange floors are penny prospect tombs compared with the action on the Vancouver stock exchange and on the infant Calgary floor."

I think we obviously have an obligation to ensure that some of the fraudulent or, at least, questionable schemes which led to this regulation some years ago must be carefully considered. It would appear, though, that there is an opportunity which we are not thoroughly addressing in Ontario as we look at the prospect for finding more mineral wealth.

Every one of us in this room is aware of the need for increasing mining and mineral activity in the province in the development of our resources, because of the jobs that can be provided, because of the standards of living which will be improved, because of the needs for those particular minerals and their final products. We are at the stage, though, where we have, I think, gone very heavily against the prospect of developing junior mines.

I would be most interested in hearing whether the commission is prepared to consider the results, possibly of this two-tier approach, which may be at least worthy of looking into if British Columbia has decided to consider it, but more particularly in the effective action that is resulting from interest in penny mines as it's clearly being reflected in the stock exchanges in the west.

This is an area in which I think we have a great opportunity because of the record of finding worthwhile projects, at some risk, of course. I think if the securities commission is able, as a further project along its line, to try to redevelop in balance the junior mining area it will indeed be a good service to the province and to the people of Ontario. I look forward to having the minister's views on the prospect of that development being encouraged.

Hon. Mr. Drea: I appreciate your asking me. I think I will answer in a policy regard and I think Mr. Salter has some very interesting figures here on the equity one.

On the policy view, some time later this month there will be legislation introduced, particularly dealing with the junior exploration company, which I think will be very popular with the junior exploration companies in all of their aspects. It is going to be a bit unusual, because comment is always solicited with anything in the securities field from the entire securities industry. In this case I'm going to take the responsibility that that comment has not been solicited from other than the junior mining industry. The reason for that is one of time.

I think we can do certain things for them which will meet many of their concerns and I will have to take the responsibility if there is an antagonistic response from the rest of the securities field. I don't think there will be; I wanted to say that now.

The matter of a two-tiered exchange or system has been brought forward to us, in my term on at least three different occasions. The west coast example has been brought to our attention. We have consulted with British Columbia; Mr. Baillie is in constant consultation with them. I don't know whether he's talked with them or what really is the purport of that article, but the BC people want to go out and explore their system to see what could be done. We were advised they were reviewing what they had already done and that no practical purpose could be achieved.

As a matter of fact, on that occasion we were prepared to have the government pay the way. Included in the group going out there would have been Mr. Baillie and we would have paid for two people who had brought forward submissions on some changes regarding junior mining exploration. But on the basis of advice from British Columbia—and as late as the Newfoundland conference I talked to the deputy minister, the minister wasn't there—the government there was still in a very fluid situation regarding what they intended to do in this area. I went to that junior mining conference, in fact I spoke at it, and I think we have to look at this whole situation in historical perspective as well. I don't think it is the introduction of new regulations governing the so-called penny stock or the junior company that is to blame entirely for the demise of the relatively small company's activity in exploration. I think there is the factor that in the 1960s that industry was rocked with scandal. There's no question investor confidence was somewhat shattered, to say the least, by a number of events. I'm being very euphemistic about it. Investor confidence was shattered. I think that's a very euphemistic way of saying what happened.

One of the things that was brought forward—and I still rely, oddly enough, on something done by a very distinguished labour economist, Don Taylor, who did a very thorough analysis of junior exploration, of what actually went into a mine, some years ago. I think that study by the union of what actually went into the exploration end of the dollar invested, to say the least did not instil investor confidence.

At the same time, there was the downturn in metal demand. There is also the question that today exploration is only the least concern, if you find it. Statistics the mining industry gives on the cost of putting a new mine into production, compared to what it was only four or five years ago, are really astronomical. Those factors are involved.

[5:15]

Secondly, in the field of risk capital, particularly on the junior end, or on the exploration end or whatever you want to call it, there is the so called glamour. I think I tried to put into perspective at that conference that today, if you have oil or natural gas exploration it is a very glamorous and high profile et cetera, et cetera; there's no argument that everybody needs it and so forth.

When you look at metals it's a little different story. You have magnificent tax shelters for oil and gas exploration. You do not have magnificent tax shelters—I'm not

commending them one way or the other—for base metal exploration. There are a number of factors.

One of my concerns is that in the risk capital field, bear in mind we've just started the commodity futures on a very organized basis and it's a field that will expand. Bearing in mind the risk—I think speculative, Mr. Breithaupt, would be a better word—the amount of speculative capital, I think, that would be devoted to junior mining is not in an entire field any more. In the 1950s and 1960s it was. Who wanted a junior company exploring for oil and gas in Alberta then? Alberta or Saskatchewan were the only places where they were drilling. At that time metals were the high profile item; and secondly, there was not the attraction of other types of speculative investment. I think all of those things have to be put into proportion.

Notwithstanding that, as I say, we will be coming in, within a couple of weeks hopefully, with the amendments to the Securities Act. As I said before, those primarily will be housekeeping and draftsmanship, but there will be a particular section devoted to junior exploration and junior mining companies. I would hope this would be the start for the small exploration company. The small company may even, on the basis of its exploration, be able to participate significantly in the actual development of a producing mine.

I'm afraid I'm going to have to say the question of a two-tier exchange is a very controversial one. Unless B.C. has done something in the past couple of weeks or so they really haven't made up their minds out there. They told us when they make up their minds and know the way they are going to proceed they would more than welcome the body coming to study it.

Mr. Breithaupt: I recognize, Mr. Minister, that the two-tier approach might not be the satisfactory one and is only one of the options. I'm pleased to hear legislation will be coming forward because I think it's going to be most worthwhile, and it's really needed.

Hon. Mr. Drea: Yes; it's not the total answer, there's no question about that, but in a short term the junior industry thinks it will clear many of the hurdles.

I may say we've constantly drawn to their attention, and perhaps Mr. Salter has the details on this, that there was very significant capital raising right through the exchange. The exchange constantly points this out and give examples that went right through, with all of the new regulations. In very quick time the capitalization was achieved and so forth. The Toronto Stock Exchange quite frankly disputes the fact its rules are really an inhibition against the junior company. Of course, the junior companies claim there are a lot of things in there that really preclude certain things, and that's what we're trying to do with this particular piece of legislation.

Mr. Salter has some figures; could I just see that equity figure for a moment?

Mr. Salter: Yes.

Hon. Mr. Drea: Yes, this is the latest equity figure. Last year the equity figure on exploration was $4,894,000; that's cumulative dollar value through 1978. In 1979 it's going to come out at about $11,400,000.

Mr. Renwick: How would that compare with Wintario and Lottario?

Hon. Mr. Drea: Mr. Renwick, I can give you some broad figures. I don't have Wintario, but I know bingo is $250,000,000 gross.

Mr. Renwick: I was just going to say the government of Ontario has undercut the penny stock market.

Mr. Breithaupt: There seems to be sufficient scope for development.

Hon. Mr. Drea: I'm not necessarily sure someone who wants penny stocks buys Wintario. I can understand your—

Mr. Chairman: I must say the minister has shown less emotion in answering that question than I think Mr. Baillie might have used in answering your question. A supplementary from Mr. Davison.

Mr. M. N. Davison: No, no. I wasn't going to ask a question.

Mr. Chairman: On securities? Are there further comments on this?

Hon. Mr. Drea: Not unless Mr. Salter would like to comment.

Mr. Breithaupt: That's just fine. I appreciate that information. I've some further questions, depending on the time.

Mr. Renwick: I would like to place four questions; I have no follow-ups. I rely on Mr. Salter to be equally laconic in his replies. There are four areas, Mr. Minister, if I may ask Mr. Salter, because they are specific questions.

Mr. Chairman: Why don't you use the microphone and speak directly into it, Mr. Renwick?

Mr. Renwick: My first question is on the present position of the exchange in connection with this ongoing discussion about fixed commissions. My brief comment is that it appears to me that the exchange is winning out in making permanent its policy with respect to fixed commissions.

The second area is the exemptions under section 99. What's the present state of the rules with it, and what exemptions have been granted?

The third question is related to section 140. What has been done to establish some sense of distance between the exchange and the securities commission?

My fourth question relates to the change in attitude of the Securities and Exchange Commission in the United States on the question of the relationship of directors and their corporate accountability? To what extent is that being looked at from the point of view of the securities commisison here, with a view to implementing here the kind of requirements that are now extant in the Securities and Exchange Commission?

Mr. Salter: Mr. Chairman, to reply, I note that Mr. Renwick has very kindly given me the easiest question first.

On the TSE's position in respect of the fixed minimum commissions required of the exchange's members to be charged, Mr. Renwick will recall that at a massive, lengthy hearing in 1976 the question was reviewed by a majority vote of the commission. That tribunal, I should mention, is usually unanimous. By a majority vote the fixed commission rate structure was continued to be approved. It was reviewed in 1977. No changes were then seen to be necessary and the commission said that two years thence—that is now—our position would again be reviewed by the commission.

The exchange has sent us a brief suggesting that no change in the present commission rate structure is necessary in the public interest.

The commission has invited comments from the public on the TSE's position, and has instructed the staff to review carefully the TSE brief and develop our own staff recommendations to the commission. That is in progress. I would expect that by this time next month the commission will have determined whether a further hearing is necessary.

To conclude in responding to Mr. Renwick on that question, I would note simply that the thrust of the TSE argument appears to me to be that, notwithstanding the marked increase in profitability of their industry over recent times, given a longer, and in their view a more appropriate, time frame, the commission rate structure does not develop unconscionable profits. But that, again, is very much in the works.

On the second question, it is difficult to be too laconic, especially since I know from Mr. Renwick's close involvement with matters relating to takeover bids in the 1973 select committee on company law report that his attention probably goes to the matter of the obligation—in a private deal by the control block in a public company—the obligation imposed by the statute to make, in certain circumstances, a follow-up offer to all other shareholders.

That has been, along with the squeezeouts, the going-private area mentioned by Mr. Breithaupt, one of the most difficult areas in securities regulation, in my view, over the last several years. It has been one of the two areas, squeezeouts and takeover bids, that most threaten public confidence in the securities marketplaces.

Specifically, section 99 of the new Securities Act permits the commission to exempt, in whole or in part, takeover bids from the general requirements of the statute.

I should just check with Mr. Renwick. Is it the control block premium question that concerns you?

Mr. Renwick: Yes.

Mr. Salter: The statute permits the commission to give exemptions from that obligation. The commission has published, first, in mid-1978, draft guidelines that after much discussion and much agonizing have been refined. They state now simply that given the threshold being reached and the obligation to make a follow-up offer clicking in, given that, the commission would—and this is just a broad-brush outline—would be generally minded to give exemptions unless one of three situations exists.

First of all, you can look at the deal and say: "This is clearly a ripoff."

Second, unless it appears that the public shareholding in the company came about by reason of public expectation, the original promoter would stay with the deal that he took public. It is as if I, with a profitable little widget company, went public 10 years ago. For some reason or other the public shareholders who joined with me in ownership of the company thought that I and my management team were key to the enterprise. If I sell out within a period of, say, 10 years of originally going public, the commission has said it would not be minded to give any exemption from this follow-up offer obligation.

Third, if in effect a control block is put together by a number of private deals—under the statute it would have to be fewer than 15—but if a control block is in effect created by a number of private deals, all at premium prices, then again the commission would look with strong disfavour on any exemption.

The commission, though, did go on to say that notwithstanding the existence of any one of those three sets of circumstances, it would still at least listen to an application for exemption if there were some other overriding factor present. One such would be where control of a Canadian company is held offshore and the effect of the transaction was to repatriate control to Canada.

The final part on that question, Mr. Renwick: there have been no applications to the commission in the short weeks that the act has been in force for any such exemption.

Your third question went to the relationship established under the 1966 act between the commission and the Toronto Stock Exchange. I believe your precise words were: "What has been done to establish a sense of distance between the exchange and the OSC?" I think my answer to that is in two parts. Both will be very brief.

What I have seen in the approximately four and a half years I have been with the commission, what I myself have actively tried to promote, is a closer working relationship, a more supportive working relationship between OSC staff and the TSE staff. We get along together much better than I think we ever have done before.

Mr. Renwick: That worries me.

Mr. Salter: Before touching on your worries, I would like to say that in a number of matters and in a number of major investigations the TSE and OSC staff have co-operated to excellent effect.

At the same time—and this, if you will, is two-tiered—the other tier is that my betters, the commissioners, are far from complacent in their review of proposed TSE bylaw changes. I recited what has happened in the confrontation between the TSE and OSC on the exchange's fixed commission rate structure.

On your final question, and I think you—

[5:30]

Mr. Renwick: I have just one question. How many actual interventions have there been by the securities commission on the exchange in relation to the bidding that was going on between the corporate takeovers? How many times has the securities commission actually said stop to the exchange?

Mr. Salter: There has been OSC involvement in every one of the major takeover situations in the last two and a half years. In the first, the Alberta Gas Trunk Line takeover of Husky through the facilities of Amex, we had a sense of legislative helplessness there. The law then in force did not permit us, in our best considered view, to take direct action in respect of what AGTL was doing.

We did see a small run-up in the price of the stock just before the AGTL plans became apparent. That was a big investigation; I think it was very thoroughly done and it was an example of the co-operation I mentioned between the staffs of the self-regulatory body and of the regulatory agency.

In the Simpsons-Sears merger and the subsequent Hudson's Bay takeover bid for Simpsons, there were rulings of the exchange appealed to the commission. A finding was not made since some will remember the Simpsons-Sears side of that thing collapsed at the end of December last.

In the Edper-Brascan matter this spring, the commission actively intervened to say to Edper: "What you have proposed to do on the Toronto Stock Exchange is not going to happen, fellows, unless the exchange can very quickly expand its rules to cover some competitive situations that we think quite possibly could develop."

TSE proposals in minor matters, for instance as to how its members shall handle interest on customers' credit balances and minor matters going to the day-to-day conduct of the exchange, have all been reviewed by the commission and some changes, perhaps major changes, have been made at the instance of the OSC.

Finally, Mr. Renwick asked as to the SEC attitudes towards the position of directors in public companies and the whole question of corporate responsibility. Those have not been ignored. There has been a drift both ways from securities regulation in the US into securities regulation in Canada. Many of the provisions of the new Securities Act reflect case law that was developed over a number of years in the United States.

By contrast, the Ontario disclosure rules and the substantive requirements in squeeze-outs and going-private situations are ahead of anything on the continent, in particular away ahead of what the SEC has recently adopted.

On corporate responsibility, what is to be required of directors, we are reading everything that comes out and we are watching it closely. We have as yet no specific recommendation to our minister. We will try, when such recommendations are made, to factor in the differences between the Canadian scene and the American scene. That is not much of an answer but it is a difficult area; it is one that we are watching.

Mr. M. N. Davison: I have a thousand questions on the securities part of the esti-

mates, but we have less than half an hour to deal with the rest of the items.

Mr. Chairman: You have five minutes.

Mr. M. N. Davison: Five minutes? I would like to move, then, to financial institutions and raise only one of the issues I wanted to bring forward.

It deals with some apparently fraudulent advertising that was placed in the Windsor Star over the summer by a company by the name of R. L. Gougeon Limited.

Mr. Breithaupt: Have we then completed securities? Is that what you wanted to do?

Mr. M. N. Davison: Well obviously.

This company was offering something called the Workers' Insurance Plan, which was underwritten by a company by the name of Trader's General Insurance Company, which is a Toronto firm.

The ad was directed at members of the United Auto Workers locals in the Windsor plants, which is a considerable market. This company ran these ads in the paper that claimed the insurance plan was arranged by R. L. Gougeon Limited for the United Steelworkers in Sudbury and Sault Ste. Marie and now, wonder of wonders, had come down to Windsor to let the local working class fellows in on the great plan they were having.

The United Steelworkers had absolutely nothing to do with this R. L. Gougeon Limited when they arranged or sold their insurance in Sudbury and Sault Ste. Marie. Stu Cooke, the director of district six of the United Steelworkers of America made that perfectly clear, certainly in the Windsor press.

I would like to know, first of all, what the ministry has done to stop this practice of that sort of advertising by this insurance company?

Hon. Mr. Drea: I will ask Mr. Thompson to answer that.

Mr. Thompson: Yes, I do know of that. That plan had been offered in Sudbury, I believe, by the Gougeon agency through Trader's General and I understand it did have the support of the local of the Steelworkers union there.

Mr. M. N. Davison: I am sorry, but trade unions don't usually involve themselves in little deals like this with for-profit companies, and I am sure that local is no different. You will frequently see a trade union, for example, lend its name to a non-profit endeavour, or something of community interest or social concern, but by and large the trade union movement, especially the Steelworkers and United Auto Workers in Ontario, don't spend their time trying to help out impoverished life insurance companies.

Mr. Thompson: I think they were endeavouring to get into automobile insurance. The fact they did not support it is, frankly, news to me. I didn't know that aspect. We picked up the advertising for another reason; we have had the agency in and asked them to cease and desist from that type of advertising because of an aspect under the Insurance Act, which is section 363, dealing with marketing of auto insurance that implies membership in a group can effectively reduce premiums. It is only from that aspect we had knowledge of it. We do have it and I will follow up the other matter. I didn't know it didn't have their support.

Mr. M. N. Davison: Will you contact Stu Cooke from district six of the United Steelworkers of America; and Bob White with the United Auto Workers? It is certainly the kind of practice I don't want to see take place in the province of Ontario where insurance companies try to associate themselves with trade unions in order to get contracts from ordinary workers.

Mr. Thompson: Yes. I might say on the overall, this type of offering came to our attention last month and I have set up a group of some 11 insurers who are involved in this type of operation to really explore and investigate and find out what the operations are, and hopefully to come up with some form of guidelines.

My concern, again, is perhaps a little different. It was perhaps on a potential disruption in the market. I'm concerned from the misleading aspect, yes, but I'm also concerned from the other side where, particularly in one-industry towns, it could effectively eliminate the local agencies. I've asked the agents' associations to participate in this too.

We've just appointed, I think, 11 people to this group; we haven't met yet but we're hoping to do so in the next week or so.

Mr. M. N. Davison: Your order on the advertising will then apply to any advertising of that sort?

Mr. Thompson: Anything at all. We've always maintained that.

Mr. M. N. Davison: So if they move into the Hamilton Spectator with a special program for my Steelworkers you'll be on top of it.

Mr. Thompson: Yes, absolutely.

Mr. M. N. Davison: Good to hear it.

Mr. Breithaupt: I presume that with respect to the pension commission and with respect to the motor vehicle accident claims fund there may be one or two questions; one dealing with when that report is coming out, and perhaps one dealing with the operation of the fund.

Hon. Mr. Drea: To the latest of my knowledge it will be April; and bear in mind that I'm not the one responsible for it, the Treasurer (Mr. F. S. Miller) commissioned that. There have been considerable moneys expended by the Attorney General (Mr. McMurtry), who has to expend them, to provide more editors, et cetera, to facilitate the actual writing and printing of the report.

Mr. Breithaupt: Other than dealing with that report and the many ramifications of ageing and all the other problems when they come up, I have no other questions with respect to the operation of pension plans under item 2. Similarly under the motor vehicle accident claims fund, we know that will continue at a lesser involvement because of the changes that compulsory insurance will bring. No doubt that will be discussed also at the time that legislation is before us, so I have no questions I would want to put there.

I thought if it is agreed that others don't have questions with respect to items 2 and 4, then we could continue with financial institutions for what time we have left and perhaps return to it tomorrow morning, because the other three items might not take the full morning. It's just a suggestion which might be helpful.

Mr. Chairman: Is it the wish of the committee that we call votes 1, 2 and 4 then?

Mr. M. N. Davison: Could we do it the other way around: tomorrow we go ahead with our scheduled business and if we have time left over we come back to financial institutions?

Mr. Breithaupt: That's fine with me, certainly.

Mr. M. N. Davison: I'd sure like to have the opportunity to go into it.

Items 1, 2 and 4 agreed to.

The committee adjourned at 5:43 p.m.

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Legislature of Ontario Debates

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Third Session, 31st Parliament
Friday, October 12, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Hansard subscription price is $15.00 per session, from: Sessional Subscription Service, Printing Services Branch, Ministry of Government Services, 9th Floor, Ferguson Block, Parliament Buildings, Toronto M7A 1N3. Phone 965-2238.

Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

FRIDAY, OCTOBER 12, 1979

The committee met at 11:20 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS
(continued)

On vote 1502, commercial standards program:

Mr. Chairman: We have 15 hours and two minutes left in the Ministry of Consumer and Commercial Relations. Mr. Gaunt?

Mr. Gaunt: Thank you, Mr. Chairman. I just wanted to—

Mr. Swart: Before you start I have a point of order. It was my understanding yesterday that the minister would be tabling the report and he will be tabling it today.

Hon. Mr. Drea: I understood from Mr. Davison, yes, that he wanted to proceed on the vote with whatever time was left.

Mr. M. N. Davison: No, what I suggested was that when Mr. Breithaupt proposed we do insurance today that we do it after we do the work which was originally scheduled for today, which was companies business practices.

Mr. Chairman: You're quite correct, that slipped my memory, Mr. Davison. Perhaps, Mr. Gaunt, if you don't want to stay around for all of the debate on the other votes, I could send a page to advise you when the insurance comes back up. Will you be in the House?

Mr. Gaunt: That would be all right.

Mr. M. N. Davison: But as far as dealing with previous business—

Mr. Chairman: If you only have one question, why don't we just deal with it?

Mr. Gaunt: It's very short. I could perhaps have dealt with it privately with the minister. It's a matter having to do with car insurance, in which various companies set different rates where the family isn't insured with that particular company.

In other words, if the parents are involved with State Farm, and I have an 18-year-old boy who wants to insure with that company, my son will get a preferred rate by virtue of fact that I'm insured with that company. If I'm not insured with that company, then my son has to pay anywhere from 25 to 30 per cent more for the same insurance coverage as opposed to if, as a parent, I were covered with that company.

I don't think insurance companies should be allowed to alter these rates on their rate books, and on the application forms. I just wanted to draw that to the attention of the minister.

Hon. Mr. Drea: Well, Murray, do you want to—

Mr. Thompson: I think you mentioned Allstate in that.

Mr. Gaunt: There's Allstate, State Farm, and Wawanesa. Those are the companies doing that.

Mr. Thompson: I think it is in the concept of insuring the family vehicles. All in the family, I suppose, is the concept they're proceeding on.

I don't know that as a complaint. We'll look into it, and respond back to it, but it is normal. In many circumstances all the family is insured with the one company.

Now, I can look at that. In the normal case I can't see anything wrong with that, but if there is an effort being made to tie a sale together, yes, I think we should look into it on that basis. I think we do have a mechanism under the act to do that; as to whether there is essentially the same risk.

Mr. Gaunt: The point is, if a young person has a clear driving record, why should he have to pay 30 per cent more for the same coverage, simply because his family happens to insure with another company? Surely the deciding factor in a case like that is the driving record, and the capacity of the young person who is applying for the insurance, not whether his ma or pa is insured with State Farm or the insuring company.

Mr. Thompson: Assuming though, in this case, that the vehicles are separately owned, that they are not all owned by the parent, by the father or mother in the household.

Mr. Gaunt: I'm talking about separately owned vehicles.

Mr. Thompson: I think it deserves looking into, and we will do that, sir, and respond.

Mr. Gaunt: The matter was raised with me by an insurance broker, and he knows the subject very well. He deals with all of the companies—or almost all of the companies —and he said, "I don't think it's fair." And I don't either.

Hon. Mr. Drea: You could just say that's one of the things in a package of rate adjustments of getting very close to the industry. It's been portrayed as something regarding just age or sex. These were some of the things we were looking at that were somewhat discriminatory, almost built in.

One of the reasons that originated that was that it was a marketing tool, And you're quite right—a number of agents don't like it at all. It was a marketing tool to provide an incentive, where you had a family that was a good risk, that you brought in all of the family.

In the other one, the one that wanted to take the younger person, who, by group definition — not as an individual — was a higher risk. They didn't want the risky business without getting the family business.

This is where we're saying that the individual driver's record is the key, not the group. As long as you have the group situation, you are going to have this type of thing in terms of the marketing arrangements, whether you have the supposedly much lower risk group of over 25, that plays it just the opposite. Everybody designs their insurance package, because each company virtually has a custom type of policy. They work it to get that business.

Obviously, under the rates and under the actuarial experience, that's what you want. The difficulty is that some of them don't want higher risk business. Another difficulty is the individual gets caught up in the system. That's why we went after that system.

I don't think you can do it in a regulatory way, company by company. You're still going to wind up trapped in that system that's supposedly by age, as a group, as a whole. There is a risk category, I admit that. There's no question actuarially. But by the same token, there are a number of very high risk drivers of 25 and up. There are a number of excellent drivers aged 25 and younger.

That's why we're breaking through that particular end of the system. I think you'll find when we do break through it, which we will, that this type of thing, in the marketing arrangement, just won't exist any more. But there's no question it does exist. I'm sure you've found it on other matters.

[11:30]

Mr. Gaunt: Right. Well, thank you.

Mr. Chairman, I want to thank you and the committee and the ministry for their tolerance and understanding and co-operation in this respect. I'm sure the minister will look at that because there is a bit of a problem there.

Mr. Ziemba: The problem will be solved when we have public auto insurance.

Mr. Chairman: I'll allow Mr. Rotenberg one quick comment on this and then we will stand down this vote and proceed with our schedule.

Mr. Rotenberg: For the information of Mr. Gaunt and others, there are other forms of discounts for family automobiles. When a husband and wife have both their policies in a company, there is a discount for a second automobile simply as a marketing tool and because there is a theory that if the cars are together—they aren't driven as often. They go together sometimes.

There is some validity, I think, for a small discount when all the family cars are insured by the same insurance company. From a marketing point of view, there is a savings on cost of the insurance company issuing the policy, if they are all on the same policy. I agree with Mr. Gaunt, 30 or 40 per cent is out of line. If there was a 10 per cent differential at the same company, I think that would be in line.

When the superintendent does report on this, I wonder if you'd relate it to the husband/wife discount and the two cars in one family discount which seem to be in order, whereas what he brings up seems to be a little too far out of order.

Mr. Chairman: Thank you. We will stand down item 3 and go on to items 5, 6 and 7. I will accept questions on any of those items.

Items 1, 2 and 4 agreed to.

On item 5, companies:

Mr. Breithaupt: With respect to the companies division, we have had the opportunity to review at some length the matter of changes in corporation times and many of the new involvements that have gone on in the companies division. The amendments to the Business Corporation Act were discussed at some length and we did have answers to a variety of questions.

I have no particular questions of the companies division. I think I'm prepared to stand that down on this occasion so business practices might be able to be given a little more priority this time.

Mr. Chairman: Are there any questions from the NDP on the companies vote?

Mr. Ziemba: Is that the companies branch? Yes. First of all I'd like to ask a little bit about that fire that took place in 1975; the mysterious fire in the companies branch where a lot of records were destroyed.

People keep coming to me with all kinds of allegations and conspiracy theories. How did that fire start? Who started it? Why? Where? What was destroyed and were there some horrendous secrets burned?

Hon. Mr. Drea: Mr. Ziemba, nobody has ever queried me about it and it's before my time. I'm sure Mr. Howard, the companies division director, would know.

Mr. Ziemba: I'm sure he knows about it.

Hon. Mr. Drea: He can elaborate on it.

Mr. Ziemba: I've written the fire inspector a couple of times and he provided very evasive answers. He just doesn't want to get into the politics of the thing. He gives the same kind of answers we've heard with regard to the Wardle case. They deal with the very narrow issue of the security guard being the only witness to the fire, but he doesn't know what was destroyed or who might have caused it or why. I'd just like to know what you think about it.

Mr. Howard: I wish I could give you the answers you would like to hear. The matter was investigated, but there were no conclusive results. The culprit, if any, was never discovered. I don't know who started the fire. I don't know how the fire started.

Mr. Ziemba: What was lost? How did the culprit get in?

Mr. Howard: At this point I haven't got the exact figures, but a number of hard-copy files were burned. Copies were reproduced from the microfiche so the information, if you will, hasn't been lost. We still have the information. Every file is microfilmed.

Mr. Ziemba: There was no loss of information, just the hard-copy files. Is that what you're saying?

Mr. Howard: That's right. The microfiche is still there. That's what's available to the public who want to search for particular files. Do you recall how many there were?

Mr. Ozolins: Approximately 4,000 files were destroyed or damaged, but as Mr. Howard has pointed out—

Mr. Ziemba: They appeared to be destroyed—collectively destroyed.

Mr. Ozolins: They went in a block.

Hon. Mr. Drea: I think, Mr. Ziemba, the only thing I recall about the fire was that the ministry building is not a government building. It's a leased commercial building. I'll get you a complete report on it, but it seems to me subsequent to that the owner of the building or the property manager was required to take much greater security precautions.

One of the difficulties with that building is a garage into which the person at the night desk can't see. That now has television monitors in it. There is also a back door out of an alley next to a parking lot that supposedly was covered by an alarm bell, but by the same token it was somewhat common practice for people in the ministry at that time to go out that door for convenience, to the parking lot.

I think it was drawn to the attention of the ministry that there had to be much greater security. Bear in mind that particular floor where those records are taken in—aren't they pulled off that floor at night and locked?

Mr. Howard: What we're talking about, Mr. Minister, is the filing room in the basement where the hard-copy files are retained.

Hon. Mr. Drea: Ever since then, there has been a much higher degree of security imposed upon the owner or the property manager of the building.

It seems to me there was also a study done by the provincial police, wasn't there, about bringing that building up to the standards of security in these government buildings—say the Macdonald Block? I think the conclusion was that because of the design and configuration of the building the cost would have been absolutely prohibitive. I'll get you a complete rundown.

Mr. Chairman: Thank you.

Are there any further questions on the companies item?

Item 5 agreed to.

On item 6, business practices, and item 7, Commercial Registration Appeal Tribunal:

Mr. Chairman: We are now dealing with 1502-6 and 1502-7.

Mr. Breithaupt: Mr. Chairman, there are a number of items in which I have interest with respect to the business practices.

Of course, I don't want to take over, other than to share in the time. I can think of a number of particular items. One that immediately comes to mind is under business practice. It is this whole approach of the nonbill.

The idea is an invoice is sent to a person for what appears to be something that has been ordered. The end result is if in an ordinary business operation the invoice—as it is considered to be—is paid, then really

a service is being paid for which was not ordered. There may be a disclaimer on it.

The example I give to you is something called the National Medical Directory and Diary, which has a box office in Toronto, and was addressed to a certain Dr. Stuart Smith. It looks like an invoice and has a nice tear-off portion and says "$65" at the bottom. At the top in type, it says: "This is a solicitation for services and not a bill, invoice or statement of account due. You are under no obligation to make any payments on account of this offer unless you accept this." Then it's reprinted in French, which is very encouraging.

The end result, of course, is the average office worker, medical secretary, or whoever it might be, who would be likely to receive this, without even asking the person much about it, might pay it. In this case it was Dr. Smith's office, but it could be a lawyers' directory or whatever. It might be paid because it looks to a large extent like an invoice of something that may well have been ordered. The person whose name is on it might never even be asked much about it. It is just paid.

That sir, I believe, is as close to fraud as damn is to swearing. It just seems this kind of approach is pretty close to the line. It may be legal, as such. Yes, there is this disclaimer on it. But I don't know how widespread it is.

I'd be interested in hearing, as a consumer complaint, or as a business practice, just what observations the ministry has on this as a somewhat more than nuisance item, particularly in a metropolitan scene where all the lawyers, or all the surveyors, or whoever it might be, could be canvassed with things like this that are obviously going to be paid for rather often, innocently, but really with somewhat close to a fraudulent involvement.

That's just one point we could perhaps talk about as a business practice.

Hon. Mr. Drea: Yes, it's been going on for some time, Mr. Breithaupt, with variations. It used to be coloured yellow, and it was called a classified directory, for rather the same purpose. First of all, it is a business practice; it's not a consumer one. Notwithstanding that, we have been attempting to deal with the matter. I think it's fair to say that the police, federal, provincial and local, have been attempting to deal with the matter, and I think perhaps Mr. David Mitchell, who is our director of investigations, is very familiar with this. It's a long, ongoing situation. Also Mr. Robert Simpson, who is our executive director of business practices. They can address themselves to you on this matter.

Mr. Breithaupt: Thank you, Mr. Minister.

Mr. Mitchell: We have examined the invoices. We have, in fact, given a brief to the special prosecutors at 18 King Street, in conjunction with the OPP anti-rackets branch. At the moment, the crown is satisfied that we could not succeed in a prosecution for fraud. We just couldn't succeed.

There are some invoices that are a little more sneaky than the ones you have there. You have to read one very carefully to realize that it is not an invoice. In any event, the way it sits at the moment, there is nothing we can really do with it. We can't get a handle on it, for prosecution purposes.

A number of the companies, incidentally, are beyond our jurisdiction. I recognize that the one we have there has a mailing address in Toronto, but a lot of them are beyond our jurisdiction.

Mr. Breithaupt: There were a number of Swiss post office boxes.

Mr. Mitchell: Yes. Ireland is a popular place to be mailing from today. Germany, England. In any event, there isn't much we can do about it, unfortunately. Every time one comes forward, we will look at it and add it to the collection, and perhaps one day the crown's office cay say, "Look, we've got a history here, and perhaps we can do something with it."

Mr. Breithaupt: As a continuing theme with the investigations, we recognize the comments that were made earlier this week on the whole matter of odometers and the investigation and the involvement that that has to take, and while indeed that may be somewhat epidemic, as the minister has said, it would be clear to me that the office you're operating cannot investigate every single matter.

What are the major themes, though, that are being dealt with at this point? Is there sufficient staff to do the job, in the kinds and varieties of investigation, with the specialists that might be required in this area? How do you feel about the abilities that you have to cope with these varieties of scams that do occur under the overall title of "business practices"?

Mr. Mitchell: I believe we have quite sufficient and capable staff. We also have the ability to hire, on a temporary basis, expertise that we don't house within the branch. Thus far, we've been able to handle everything that's come in. And I think we've been

able to spread our resources around pretty well.

[11:45]

Mr. Breithaupt: When we talked about the odometer matter, and the minister mentioned it earlier, there was a suggestion made that possibly on the renewal of a licence, there would be the opportunity to have the mileage of the vehicle placed on that renewal. Then in many cases, at least, a track record of the vehicle would more or less be there and, therefore, a sudden lowering of mileage on a higher-priced newer car that might, as a result, make it worth while for the person to do so, would to some degree perhaps be caught up. Do you think that that idea might be worthwhile?

We appear to have information from Quebec that the name and a recent phone number of the previous owner is sometimes provided or should be provided to a buyer of a car. That may not be practical either at times, I recognize that, but is there some way to get a better handle on this odometer circumstance, for instance?

Perhaps the minister wishes to comment on that.

Hon. Mr. Drea: If I could just comment on that. It's the same situation. Mr. Mitchell was addressing himself in terms of what we in Ontario can do in regard to the invoicing thing. Maybe I can expand it a bit.

We are in consultation with the Post Office because the device that is used and which gives it authenticity is the fact that it's a first class letter, first class mail. The postal authorities in many countries have been looking into this because the only difference is the language. Some postal authorities have been able to come to grips with it because they have much more authority to intercept than does Canada Post. There is a study, or whatever you would like to call it, being done by Canada Post now in regard to developing postal regulations that would come to grips with this, because I think you touched on the basic problem. It comes into the office. The particular person to whom it's addressed very seldom sees it or if he does, it's just a cursory look and it's put over to whomever in the office normally remits. The complaints we get invariably are from a smaller business.

Mr. Breithaupt: Where the person may have seen it?

Hon. Mr. Drea: Sure, where there's a little bit more personal contact between the person remitting—quite often it's the person himself who has to sign a cheque. But the bigger the company, the better success there is. The bigger companies, therefore, take precautions that they list these things in their payout to wherever the remittances are being prepared.

The American authorities have taken some action against some of them, and again it depends upon how they're phrased. Again, the way they're phrased always is in reaction to whatever is the latest attempt made by the Post Office or law enforcement authorities to do something about them. Some action has been taken under the United States postal code for violation of the false representations. They also have sanctions there through the United States postal service. Having dealt with the US postal service some years ago, their sanctions are far in excess of the sanctions available to Canada Post.

We have approached the Postmaster General, this is ongoing and the federal authorities are aware of the problem. As the solicitations are usually mailed under sealed covers, there is no way of determining whether or not the contents of the letter comply with Canadian postal regulations until they're opened and referred to the Post Office. They say they have been in consultation with other postal administrations regarding this type of scheme because when there appeared to be a crackdown coming here based upon the American crackdown, they went to Europe, et cetera—they just go to another country. The country, really is in a difficult position because it's not a business in the country.

Mr. Breithaupt: No, and the mail has already gone.

Hon. Mr. Drea: The mail has gone, yes. It is the hope of federal officials that other postal administrations will implement regulations similar to their solicitations-by-mail regulation. In other words, what they're looking at is a great measure of reciprocity where the post office in the original country would just say, "No, it cannot leave."

There has been a prohibitory order issued on July 13, 1978, against the International Telex International Directory Publishing Company Limited in Hong Kong under the provisions of section 7 of the Post Office Act. What we have been doing is co-operating with them, sending them each piece of material we get. Bear in mind nobody is paying on the pieces of material that we get, so you don't know how many did pay on the matter. There's just a little disclaimer written across the top. If you really read it you obviously wouldn't pay it. With all due deference to Mr. Smith, I suppose he would not have seen that as rapidly were he still in private practice, et cetera.

Mr. Breithaupt: I'm sure not—in a clinic or wherever it might be.

Hon. Mr. Drea: Yes, this is a very real problem. As I say, it's difficult to get them under fraud because there is a total disclaimer there. The defence is going to be, "We said it's not an invoice, it's not a bill, you do not have to pay this." It's a pitch.

Mr. Breithaupt: Of course.

Hon. Mr. Drea: We really think the only effective way—and I think the federal government agrees with us, the Americans agree with us—is through the postal sanctions.

Mr. Breithaupt: And through the international Postal Union.

Hon. Mr. Drea: This, while not fraud because of a disclaimer, is a misleading solicitation. You have to be extremely careful with it or you will fall prey to it, notwithstanding the disclaimer and the warning. Therefore at the source, which is the postal authorities—it seemed to me last year, and I remember saying this in the House, they had gotten a conviction against somebody.

Mr. Breithaupt: I didn't recall.

Hon. Mr. Drea: We've been unable to really track that down. I recall hearing it. It may not have been as skilfully devised as just a straight one is. But we will keep you up to date on it. We will keep up with the federal authorities.

In the odometer situation, the federal authorities are coming to the provinces. They are saying, "The time has probably come where you can start developing a uniform code on the transfer of licence so there is a pedigree on the particular automobile." They don't feel they can impose a workable standard under weights and measures.

They've made an absolute prohibition of tampering with an odometer. For a couple of years that was a great remedy. A number of quite reputable companies, when somebody brought them in an odometer, used to do it because there was no prohibition against it under the weights and measures. Then they had to file a complete report with all the things. The companies said, "Look, it is not worth our while to file a complete report and so forth. We just will not do any odometers."

Right now, to get your odometer fixed—it occasionally happens, the cable goes out or there's an automobile accident where it's damaged—a full report is made about what exactly was done by the repair company to that odometer. By the same token, every day of the week right here you've got dozens and dozens—not only in Toronto, but all over the place depending upon the market—who do spin.

Mr. M. N. Davison: I, too, have a dozen issues and I'll take them one at a time to allow other members to participate.

One of the things that's bothered me about the ministry, and it's particularly appropriate to look at it in the context of the business practices division, is the kind of selective public part of the operation. Traditionally the ministry's been very happy to talk about success stories publicly. The ministry's also been—as is its job—willing to dispense consumer information on various things that the public should be watching out for.

When the ministry was established in the last decade, it was one of the few ministries to be established without a provision for an annual report. When I raised that with the minister—the member for St. Andrew-St. Patrick (Mr. Grossman) at the time—in the first set of estimates that I was responsible for and introduced the private member's legislation in the House, to his credit he undertook to have the ministry produce an annual report, I think this was a step in the right direction, but the annual report still is lacking in an awful lot of ways.

When we discussed the annual report last year you'll recall I suggested that you should include in it a statistical analysis of the ministry's activity, especially in the terms that were included in the briefing booklets in regard to the number of complaints you received, how you handle them and the bottom line, what kind of prosecutions you come up with. At the end of all that, you could list how many investigations you had.

In 1977-78 and in 1978-79 the ministry issued to the opposition critics—and I don't know to whom else—very good briefing booklets. I'm sure Mr. Breithaupt will agree with me when I say that I found them to be tremendously useful in preparation for the estimates. That happened in 1977-78; it happened in 1978-79. It didn't happen this year.

This year we received about a third of the material, which is an explanation of acts administered, along with the economic analysis we get in the normal estimates material. Part of the information that was removed—as a matter of fact, most of the information that was removed—was statistical in nature.

I appreciate your staff went through some difficulties this morning getting all this material for me on the statistics on business practices.

Last year, in 1977-78, under the Business Practices Act 3,834 complaints were received, which resulted in 84 prosecutions and some

charges laid. For 1978-79, there is a dramatic increase in the number of complaints from 3,834 to 5,103. I think it shows consumers are more aware of what can be done at the ministry.

But interestingly enough, the conviction or prosecution rate didn't keep step. It went from 84 to 88, and the number of investigations actually fell in that year, from 94 to 58.

I don't want to go through the entire set of statistics, because other members don't have them and there are other examples which show other things. I use business practices because that's the vote we're talking about. It seems to me that not only critics of the opposition parties but other members of the assembly who come before the estimates committees should be provided with that by way of background material so we can judge the effectiveness of the ministry. Also, you should go back to the arrangement for estimates briefing material you supplied before this year.

More importantly I would like you to accept the suggestion I've been making for the last two or three years that in the annual report of the ministry, which you are now publishing, the last of which covers the period up to March 1979, you tell consumers what you're doing in terms of what kind of complaints you're getting, what kinds and numbers of investigations you're making and what the result is. It seems to me it's not much good to have a consumer ministry if my constituents and other consumers in the province can't tell exactly what you're up to. I think if they have knowledge in that regard they can better assess what kind of value they're getting for their tax dollars that we put into this ministry to try and provide some consumer protection.

I would appreciate it if this year the minister would give a commitment that critics and other members before the estimates committees will be supplied with those breakdowns, which the ministry has. Second, I'd like it if you would start with the next annual report and put some of those statistics, the meaningful ones, in the annual report so consumers, through the media and through contacting the ministry, can find out exactly what's being done to protect them.

Hon. Mr. Drea: Mr. Davison, I don't know what your difficulty was with the briefing. I have a very simple policy. Last year, for the last series of estimates, for a number of reasons, nobody even came to get the material.

Mr. M. N. Davison: Nobody came?

Hon. Mr. Drea: Nobody came last year.

Mr. M. N. Davison: I have the material from last year.

Hon. Mr. Drea: Yes, but we arranged a briefing session for a whole day. Would you let me finish with my policy?

I don't do it, but the instructions are that the critics particularly, because other members seldom want to, although we have invited them to—I don't know whether they came, but it is available—be supplied with every single thing the minister would ordinarily be supplied with when the minister is briefed. That's where I leave it. That's your first point.

I'll agree to the second point. But I think the operative word—and there may never be unanimity on it—is "meaningful." I'm not saying meaningful in terms of whether the figures show you're good or bad, but what does this figure—

Mr. M. N. Davison: You and I aren't going to play a word game. Anything is better than nothing.

[12:00]

Hon. Mr. Drea: Oh, Mr. Davison, you asked me for a commitment, and I'm glad you put that word "meaningful" in there. That's a judgemental thing and there may be disagreement, but on your second part, yes. It may be that we have to start off slowly, or maybe we start off large and find out from members and so forth that what we thought was meaningful wasn't. On the first part, I would give it over to my deputy and Mr. Simpson.

Mr. Crosbie: Mr. Chairman, I would just like to clarify the one point. There was no deliberate withholding of the statistics this year. What happened is that the books were put together in contemplation of the estimates being heard in the spring. The statistics were not available at that time. They subsequently came to hand, but as the books had already been bound and distributed—I guess it was an oversight on our part—we did not distribute the supplementary statistics.

At our meeting on Friday, had that issue been raised, we would have been glad to have provided them at that time, and we can provide them on any of the votes as they come along now. It isn't a question of withholding them; it's probably oversight on our part and not following up on the fact that they were not in the original book.

Mr. M. N. Davison: If the ministry has the statistics and other material available that will turn the booklet we got into the booklets that we had in other years, then

I think it would be a good idea to distribute it when we next sit.

I must say, Mr. Minister, I do appreciate the opportunity to meet with your staff. I found it to be an interesting, if not terribly long, session we had.

Mr. Breithaupt: I would like to bring in another theme at this point and that is the matter of real estate agents.

I was very interested, of course, to read the lengthy article in the Toronto Star just a month ago with respect to the qualifications of real estate agents—the apparent enticement, or certainly encouragement, of many persons into the business whose qualifications and background certainly were mixed. The results, of course, may also be rather mixed and uncertain as people are apparently going into this business with very little training or knowledge but yet are able to pass the qualification examination and are turned loose on an unsuspecting but no doubt hopeful public.

The article, with which I'm sure the senior staff of the ministry is familiar, did refer to the review sessions which have been held; to the attitude, I suppose, almost like some of the pyramid sales zeal that developed on occasion, of getting people to get into this business with hopes of great success. Indeed, for those who are qualified and thorough, that success is just fine with me. But it does seem that a careful review of this unnecessary stimulation of the market by those who obviously want to benefit from it is worthy of review. I understand that the ministry has been looking into this theme and I'd like to hear just what's happening in that area.

Hon. Mr. Drea: Mr. Simpson will probably address that in some detail, but I'd like to say that one of the difficulties, of course, is there is a very fine line in recruiting. First of all, I know of no business that doesn't paint itself in the best possible terms when seeking recruits.

Mr. Breithaupt: Even politics does.

Hon. Mr. Drea: Politics, yes. And, of course, there is always concern about the point where you step over that very fine line so that it becomes almost an inducement to plunge in. That, indeed, is a very fine line.

Your difficulty with establishing the standards of the background in real estate, Mr. Breithaupt—and I'm sure you'd be aware of this—is that people who have become very successful in real estate have come from a myriad of backgrounds. It is not necessarily one where there is a criterion of formal education. There are also specialities, such as a person who can speak a number of languages. He quite often has a very distinct advantage in a market area, but if he went to another market area he would sell very little.

Mr. Breithaupt: Yes, indeed. Hugh O'Neil in our caucus has done well, so there's no question that is true.

Hon. Mr. Drea: Is he in real estate?

Mr. Breithaupt: Oh, yes. He does well, too, which is great.

Hon. Mr. Drea: Also, you can take a great number of people who have supposedly excellent backgrounds, but for a number of reasons — whether they are excellent salespersons or what have you, I don't know — but they fail and they demise There has always been a turnover in the real estate industry, as there is in any sales industry, because it is an incentive-type industry That makes the fine line even more difficult, because if you are successful, like the securities business or automobile sales or anything else, the sky is the limit Where we try to get them to draw that line is, 'What is the average?" Everybody doesn't make $80,000 a year, et cetera We've had some discussions on this one individual case.

By the same token, there have to be qualifications, and that's why examinations, the courses, et cetera, done by the community college are increasingly difficult and complex as you progress up to where you can operate without supervision, to the manager level, et cetera. In fact, we get far more complaints that we're being too sticky, that the man's been in the trade for 20 years and he's never had a complaint, so why should he have to go to one of the community colleges.

Mr. Breithaupt: To be a broker.

Hon. Mr. Drea: Yes, I think that's necessary. One of the other things is, in times of economic uncertainty—you see this from back in the late 1950s, sometimes in the 1960s, and now—there is an inducement, almost automatically, to people who until then have been quite content and felt their niche in the economic world was on salary. But when those salaries or the jobs start to diminish there, they naturally start looking for something new. That again compounds the difficulty.

I'm satisfied that our standards for entrance into the trade are reasonable at the moment. They are as reasonable as they can be when government regulates the standards. Quite frankly, it's why I am very interested in trying to have the real estate industry bring forward the same type of proposal and even-

tually flow into the same type of program as the general insurance agent.

I will tell you, Mr. Breithaupt, wherever government regulates, government is extremely reluctant to impose other than minimal qualification standards. Sure, you get a level, but I can take you through almost every regulated industry here, and the qualification never keeps pace. Government is big, and every time you try to do something you have to grandfather virtually everybody in it, because there is a tendency that you're putting a little person out, whereas when industry sets its standards, or commerce, or whatever, those standards, because they are set by the peer group, by the people who are there, et cetera, do tend to go up every year.

Take the automobile field, for instance. How do you get to be a used car salesman and get a licence? You only get a licence when you're employed. You can't be an unemployed used car salesman.

The basic criteria are that you are employed by somebody who must take responsibility for you as his agent, and secondly, that you don't have anything criminal or untoward outstanding. We're not talking about being forever banned because of certain offences, but your prime qualification is being employed. It doesn't say: "How do you sell a car? Do you know anything about a car?" et cetera.

It's the same with a new car salesman. You can't have a licence in your pocket when you're unemployed. To me that's a ridiculous qualification. It's really set up as a control mechanism to get a responsible factor into the industry, who is the dealer or the employer.

That's why we're working away towards the other one — and mind you, the real estate industry has been quite good about this; it has been gradually moving up its standards—which is to let the industry set its standards, because it knows the standards. Things are becoming more and more complex in real estate. They are much more complex than in general insurance.

That is the particular route we've been going. It does give me particular concern, because of that fine line, that you are holding out promises of great fortune to people, the argument then being that if you get 100 you get two good ones. On the other hand, 98 people have invested themselves, their time and their talents, and it has been a dismal experience.

If they wanted to do that, there is no possible way in our society we would ever want to stop them from attempting something just because the chances on paper at the beginning were poor. But if there's that extra added inducement in stepping over that fine line, then it's wrong. What you're doing is casting a big net out there. You know darned well you're only going to get a couple, but in the meantime you process all of these through. Perhaps Mr. Simpson can tell you about it in some more detail.

Mr. Simpson: I can't really add anything in general to what the minister has said. As far as the suggestions in the newspaper articles are concerned, he indicated there is a fine line between recruiting staff and assisting in developing and training them in terms of what they have to do, and counselling them or encouraging them to cheat and subvert the examination process. We are satisfied so far from the things we've looked at and the firms involved that it is a case of assisting people through training and not a situation of handing them the examination questions so they can go in and cheat on the exams.

Mr. Breithaupt: How are your examination questions sorted out? Is each examination a different one? Are there a number of questions that are standard?

Mr. Simpson: Yes. The program is administered by the industry, by the Ontario Real Estate Association. For each segment of the introductory program there are either four or six different sets of examinations. They keep changing them. They have six in operation at any given time. Beyond that, there's not a great deal they can do, short of constantly revising them and using different sets.

What is possible—there's no question about it—is that if some organization is disciplined enough, when it gets new recruits eventually, it can ask them, naturally, "What happened to you? Do you remember any of the questions?" Over a period of time, if he really worked hard at it, someone could put together a reasonably comprehensive set of questions, at least ones that might show up on exams. That's something that could happen. But, as I say, so far we're quite satisfied that since some of them are substantial organizations, they are watching very carefully not to slip over the line between helping to train people and prepare them for a career and helping them cheat on exams.

As the minister said too, as far as the turnover is concerned, it has been consistent with the growth of the industry over the years. It is about a 15 to 20 per cent turnover year by year with new people coming into the industry and people going out. This

is consistent with virtually any other industry that is at all akin to this.

I think the bottom line for real estate is that good people are the lifeblood of a real estate firm. The one thing that I would quarrel with in that article is the notion that they don't care and that you can just stuff a body into a desk. That is just not true. They incur expenses with every desk they have and every phone they have, and they are not going to succeed in the long run by just having a bunch of warm bodies sitting at desks. Since good people are the lifeblood of the industry, they are all of them very keen on recruiting.

Some of them are developing very sophisticated training programs of their own to supplement the basic programs given by the Ontario Real Estate Association.

Mr. M. N. Davison: The Toronto Star article that Mr. Breithaupt referred to said the Ontario Ministry of Consumer and Commercial Relations is beginning an inquiry into some of these practices. Is that true?

Mr. Simpson: I think that's what I was saying. You haul them in and say, "Boys, bring in all your papers and documents and all your training programs."

Mr. M. N. Davison: Is this something special that you're doing as opposed to what you normally do from time to time?

Mr. Simpson: As far as that sort of suggestion is concerned, we have had it in past years. There have been allegations about cheating on exams. We hadn't heard of anything like this for about two years. We think we're pretty closely plugged in to what's going on in the street. As I say, this article didn't allege directly that a certain company was counselling cheating.

[12:15]

Mr. M. N. Davison: It runs very close.

Mr. Simpson: Yes, it does.

Mr. M. N. Davison: They gave the student a list of 100 questions. They told him to memorize the answers and he would have no problems. He walked in and 25 of the questions were on the exam paper. That's pretty close.

Mr. Simpson: It's still a fine line between telling them what they are going to get—

Hon. Mr. Drea: In fairness, Mr. Davison, in a pretty general examination, I would think you could probably do that anywhere.

Mr. Simpson: You can hit it on the head.

Hon. Mr. Drea: Probably, if you gave them enough of the questions, you would hit a percentage.

Mr. M. N. Davison: Twenty-five per cent of the questions?

Hon. Mr. Drea: They're pretty general questions. This is an entrance into it. When you get to some of the broker things, there are mandatory courses at community colleges that you must take.

Mr. M. N. Davison: When Mr. Breithaupt raised the matter, I think the reason he raised the problem is that there is a turnover rate of something like 4,500 real estate agents a year, according to that article.

Mr. Simpson: It's 15 per cent.

Mr. Chairman: If I may, Mr. Breithaupt, I have a couple of supplementaries on that and, rather than sit over there to ask them I'll do it here. In the case of N. S. Metro, is it correct that you pulled his real estate licence? Can a person who loses a broker's licence then appear as the salesman in real estate? Is that permissible?

Mr. Simpson: Yes. The procedure is this. Where a broker loses his registration as a broker for whatever reason, be it bankruptcy or something else, we look at it on a case-by-case basis. If the broker's loss of his licence is related to what I would call some wrongdoings in real estate, that is one matter. If his bankruptcy, for example, was due to the fact his wife was in the shoe business and he was a co-signer of a note and he went down, that's another situation.

Our practice in the case of bankruptcy is that the broker after discharge can come back to us. What we do then is say: "Okay, sir, you find a real estate broker who will give us an undertaking in writing to be responsible for your activities, to supervise your activities and give us a clear undertaking in that regard and we will let you go back as a salesman under supervision."

Mr. Chairman: In the case of N. S. Metro, which is a very specific case, as I understand it, after I'd stood in the House countless times and brought numerous incidents to your attention, N. S. Metro lost his licence.

Hon. Mr. Drea: I had a similar circumstance.

Mr. Chairman: Okay. He was operating in Scarborough as well and I'm sure that you had the same love for him that I did. He lost his real estate brokerage licence largely, I gather, on evidence of the way in which he was selling both a building in Mr. Drea's riding and a building in mine related to a percentage interest, a whole loophole to get around the condominium conversion bylaws. Yet he shows up then not as a broker but, as I understand it, as a sales-

man and manager of another project that is doing exactly the same thing, which in this case was not being sold by a brokerage company but being sold by the principals that own the building. I ask you what kind of protection do you have when a man can lose his licence largely on evidence of what he is doing as a broker and then simply hire himself out to a company that has no real estate licence whatsoever and act as a salesman to sell that particular same product to the unsuspecting public? We now have a major problem that the minister and I have to meet about with some people because of some of the things that have happened.

Mr. Simpson: There are a number of different issues in what you've raised. In the case of Mr. Metro let me just clarify what the situation is as far as the Real Estate and Business Brokers Act is concerned. He cannot be involved in the trading of real estate until he clears up all executions, judgements and debts and he will be placed on terms and conditions for two years. The conditions include posting of a $10,000 penalty bond.

If Mr. Metro is acting in a way that comes under the Real Estate and Business Brokers Act, that's one thing. He would clearly be in trouble. If he is acting as a principal on his own behalf, or he is hired by someone who is selling their own real estate, that is quite another thing. It's a Real Estate and Business Brokers Act and in point of fact, with what he is doing now, he would be responsible or the owner of the place would be responsible as a general matter of common law, for contracts and all the other stuff. It is not something that is covered by the statute.

Mr. Chairman: I guess the owner felt a little bit of the heat, because I understand he was discharged recently after he failed to pay a number of bills.

Hon. Mr. Drea: Mind you, if Mr. Metro did hold himself out as a licensed real estate salesman then he would be in considerable difficulty.

You get into this situation again: someone who owns property who retains somebody else to sell it and has them on salary, no commission, et cetera; they do not come within the definition of the Real Estate and Business Brokers Act. Now that is an enormous risk for the principal to take, because it is in effect everything that that person is doing, the principal is doing. Whereas if you are engaging a licensed real estate broker, unless you counsel him or something in the normal business relationship, he is responsible for the representation he makes.

Mr. Chairman: Understanding that—and I understand the point the minister is making—the effect on the consumer is still the same. The individual who was doing something that was considered inappropriate and from which the consumer was suffering as a result, is still able to do, through the other method, the same thing even though the broker—

Hon. Mr. Drea: No, no, Mr. Philip, no. He can show up, and he can stand there; but if he did, again, what he did in the past, his penalties would be far more substantial.

Mr. M. N. Davison: It could be much worse. He could be working for Condominium Ontario.

Hon. Mr. Drea: No, it's an area where some people say they do not want to retain a real estate agent to sell their property. They will pay somebody, put them on their payroll, and that's what they do. As I say, they take a risk with it.

Once again, it's a line that I will tell you of cases where we see people like this—and we're not a vengeful ministry. We're not out there seeing what somebody is doing who is on property. There was a difficulty some years ago, but we do watch what they are doing, and so forth.

Perhaps we can get some of those people you're talking about. If they do have specific evidence, or can shed some light on what this particular person was doing exactly or pretty close to what he was doing before, then I'll tell you, he'd be rather rigidly prosecuted.

Mr. Chairman: I think they may want to file some other kinds of evidence which I'm sure then goes on a person's record as well. It's not just the specifics directly related to the sale.

The other question would be how many real estate brokers have lost their licence as a result of your investigations? How many have you pulled? Perhaps you can simply give us that information later. Thank you.

Mr. Simpson: Give it later? I can give you an answer. As far as people go, it has to be a general one. We deal with people who want to get in, and we deal with people who we want to throw out. Okay? You deal with them coming and going in terms of their acceptability of their getting in in the first instance and then throwing them out afterwards. When all is said and done, including our consideration, the consideration of the commercial registration appeal tribunal, about 2.5 per cent of the total do not find acceptance into this industry.

What happens to a lot of them is that we turn them away. They come along and we say, "Boys, we can do it the easy way or

we can do it the hard way. If you want to get in, we're going to propose to refuse you and we'll go to the tribunal." So most people turn away at that point. But it is about two to 2.5 per cent.

Mr. M. N. Davison: But there haven't been any prosecutions under that act since 1976 or 1977.

Mr. Simpson: We just had one last—

Mr. M. N. Davison: Unless it's been in the last very short while. It's been since 1976-77 that there was a prosecution under the act.

Mr. Simpson: Okay. May I deal with that, Mr. Minister?

We have decided as part of our selective enforcement program to shift our approach somewhat. If you look at the statistics, we have greatly increased our number of inspections.

In 1977-78 there were 1,700, in 1978-79 there were 2,700 and I think you have the figures for our target—

Mr. M. N. Davison: Investigations?

Mr. Simpson: No, no, inspections.

You can develop a number of big cases and you can go to the tribunal. Some of them you will succeed with. But our approach now is to concentrate a lot more on heading off problems—by inspection activity, by going out and inspecting their books, seeing what they are doing, checking their trust accounts.

So we are getting out a lot more, getting into their offices—and there are really only 4,700 businesses in the province. Real estate gets 1,200 inspections this year. But we say, "Okay, buddy, come on into the office." You will see also in the figures there is the euphemistic title "informal meetings." That is a meeting where the guy comes in and you say, "Okay, buddy, what are we going to do?" We don't hold hearings in the offices, but we clean it up that way.

As far as the bad guys are concerned, our approach with them is to go the straight criminal fraud route if we can. A major prosecution commenced last week. Charges went down last week in Windsor. That is the route we are going.

So you will see in the numbers now and probably in the future, lower numbers in terms of proposals to revoke or refuse registration and a lot more activity in terms of, in the office, "Okay, buddy, the easy way or the hard way. Clean up your act or else."

That is exactly what we are doing. We think it is very successful.

Mr. Breithaupt: I have two other questions in this area. I would like to hear at some point from the minister just how the Bestline trust funds and their involvement has been sorted out.

The other question I have on the real estate line is the matter of real estate brokers buying and selling on their own account. I refer to the Young and Biggin bankruptcy situation in which it would appear the buying and selling on own account was part of the problem, and sub-brokers involved were having difficulty in maintaining the moneys and commissions they should have had.

Presumably the sharing in the commissions for the selling broker made certain persons creditors of the firm, according to the information that I had. I am just wondering what policy questions do come up where you have brokers buying and selling on their own accounts?

Mr. Chairman: Your second question I will consider supplementary and allow it. Bestline is a new line of questioning and I will go to the NDP and then to you.

Mr. Simpson: Mr. Chairman, we were well aware, as the Young and Biggin situation unfolded, that buying and selling on their own account is clearly and expressly forbidden by the act. It is an offence under the act and anybody who is caught doing it will get turfed.

Many of our proposals, many of our activities, many of the things we did in past years related to that sort of thing. By no means, as I describe our approach now, would we in any way forsake hammering people who got involved in that.

[12:30]

The Young and Biggin situation was a situation where the company and a related company were involved in a number of enterprises. The bankruptcy of that company was related to the involvement in other enterprises. There was, at one stage, a trust problem. We have no evidence, and had no evidence, that it was the result of a conscious effort to mess around with the trust account. It was, towards the end, a little chaotic in terms of the record keeping.

Mr. Breithaupt: Wasn't a day or two given them to make up the trust funds?

Mr. Simpson: That's right. We were on it almost as soon as it happened and it was put right right away and the bookkeeping was put in shape. We had monthly trust reconciliations by a chartered accountant thereafter. Our concern was that the real estate business be conducted with integrity and continuity and that the people were served.

The trust account situation was rectified immediately and it was supervised rigorously to the end. The bankruptcy was not occa-

sioned by, nor was there any evidence of, wrongdoing in respect to real estate.

Mr. Breithaupt. The Bestline matter you can deal with in turn whenever it comes up.

Mr. McClellan: I'll try to be brief because of the time. I'm sorry I haven't been able to obtain a copy of Instant Hansard but I gather the minister addressed on the first day of the hearings the question of redress for the home owners who had been victimized by Pastoria Holdings.

First, I wanted to thank the minister for the commitment he gave to deal with the problem during the estimates last year when I raised it. I raised it a number of times with other ministers. This is the first time we were able to get a commitment to redress this longstanding conglomeration of injustices.

Hon. Mr. Drea: I didn't give a commitment to redress it. I gave the commitment I would look into it and certain things follow. If I could have redressed it then, I would have at the time you raised it in the House.

Mr. McClellan: You've indicated in correspondence to me in August, and I gather again in committee, you intend to deal with it. Have you announced the details of either compensation or renovation?

Hon. Mr. Drea: No, I haven't, Mr. McClellan. I was going to, quite frankly. The only thing I have said on the matter is that I wanted to separate out at the beginning, because I thought we might have some difficulty, from anybody who's in litigation.

I said the other day that litigation would just put them in a holding pattern. I don't think their legal counsel would want certain things remedied prior to the litigation, particularly because they have spent an awful lot of money—in at least one circumstance that I know of—hiring expert evidence. It would put them in a holding pattern.

I was pretty blunt about it the other day. If they win their case, obviously they don't need anything else. But if they lose their case, bring them back in under this. But for the other people, I hopefully would get in touch with you within a week or 10 days. We have some files and all kinds of MPPs have files, some of them have been addressed by one person—you have had several. We propose to get these people together and inform them of this.

The arrangement I have worked out is that the deficiencies will be remedied, whatever the deficiencies are. I haven't really looked at them, in all fairness; I saw some of them around 1975—the floors sloped and that kind of thing. But for actual construction work, somebody would be brought in at their convenience, free of charge to them, the place would be rectified up to the present standard—I want to emphasize that one word "present."

I don't know that it's there, but in the case of, say, a building material that was used then but something better has come on the market and that's the one that's used now, you don't go back and do a historic exhibit, because you are only going back to square one. You put it in place exactly as though it had been covered by the HUDAC home warranty program.

As I say, obviously we can't get involved in the ones in litigation, but I want to tell them that if their litigation for some reason does not end satisfactorily to them, that they don't proceed with it or whatever, they should notify us that they too are involved. I would prefer to do it, quite frankly, through the members because I know yourself and I think Mr. Williams has had a couple, there are a couple of federal members, past and present—there is some duplication I guess and people have gone to many sources. It was a very frustrating thing. Let the members tell them what is going to happen and then we will work out the arrangements.

Mr. McClellan: Who will be doing the repairs?

Hon. Mr. Drea: I don't think that has been decided yet. The question was left as to whether Pastoria Holdings would be doing it or whether HUDAC would be doing it, and if Pastoria refused to do it then HUDAC would do it, but it would be done to HUDAC's specifications, on the basis that if the person who has the remedial work done is not satisfied with it, it would be exactly the same as if he or she had had remedial work done under the HUDAC home warranty program and was not satisfied.

We are trying to work out an easy way, one that's very fair to them, where they don't feel, "Okay, someone is coming in and I don't have a voice in it if he says the floor is straight." It will be done at no cost to them and at their convenience. Most peoare working and it may have to be done on Saturdays and Sundays because there is no one at home, but that's the way it is.

Mr. McClellan: Okay, rather than ask a series of detailed questions, maybe it makes more sense just to ask the minister to put the program down in writing, as you are able to do that, so that we can communicate to people we have been in touch with and advise them what, if you will, the qualifications are for a redress under this program and what the mechanics are for getting in

touch with the ministry and what the procedure will be for achieving the repairs.

Hon. Mr. Drea: I intend to do that. I have had a suggestion that they could always get in touch with HUDAC, but we want to clear up that file and in some cases maybe people have moved or what. I want to clear up those files.

Mr. McClellan: My own preference would be for your ministry to co-ordinate the effort.

Hon. Mr. Drea: So would mine.

Mr. McClellan: Yes, so I will await the written material and again express my pleasure at the response you have come up with to this particular problem.

Mr. Chairman: Thank you. We will move from pleasure to soap. Mr. Breithaupt.

Mr. Breithaupt: I wonder if we can have an update on the Bestline circumstances, the dealing with the trust funds and how that matter has been squared away?

Mr. Simpson: Mr. Chairman, as most of you know, we started in January. We thought there were about 841 people who would be eligible for the refund situation. We wrote several letters, advertised in the newspapers, advertised in the ethnic papers and made follow-up telephone calls. When all was said and done, our administrator identified 905 people who were eligible for a refund, of which some 561 to date have been processed for an aggregate amount of $1.2 million.

Interestingly enough, in all of the activity of chasing these people down, some 302 people, for one reason or another, said, "I am okay. I have written it off. I threw the stuff away. I sold it," or whatever. There were about 20 people who couldn't be tracked down because they had left the country, or moved out west, or something like that. That is the way it stands at the moment. There are still 24 that are apparently in process, awaiting their refunds.

Mr. Breithaupt: What is the balance of funds on hand?

Mr. Simpson: About $600,000, and that is consistent with the 302. We had enough on hand to satisfy everyone.

Mr. Breithaupt: If some 302 persons have given you a release or acknowledged that they don't want to have anything more to do with it, or whatever—

Mr. Simpson: They have.

Mr. Breithaupt: —then what are you going to do with the rest of the money?

Mr. Simpson: Eventually, I believe the act provides that our administrator will go to the courts and seek the direction of the courts in terms of the balance of the funds.

Mr. Breithaupt: Might there be some used for the costs that you have been put to?

Mr. Simpson: The administrator's costs are paid out of the fund. I might say, as far as the 302 were concerned, some of them were no doubt partisan to the operation because they told us in every eloquent terms what we could do with our program. They just clearly said: "No, we are not going to avail ourselves."

Mr. Breithaupt: Thank you.

Mr. Chairman: Thank you, Mr. Breithaupt. Before we move on, there is a matter of procedure that I would like to deal with when I am sure that I have everyone from all the parties here.

I would like to bring to your attention that next week the Commonwealth Parliamentary Association will be meeting in this room and therefore we will not be having as luxurious surroundings. One of the things I noticed when I looked at the schedule is that there are a number of items on that schedule which are of particular interest to members of committee, and I have tried to find out from the Speaker's office—unfortunately, I can't find out—whether there will be any recording of that meeting.

I thought if someone wanted to move a motion, just to make sure that in the opinion of this committee—because some of us will not be able to attend all of the sessions because of our schedules in the House and in committee—we would appreciate if some recording of the proceedings could be made so that MPPs could at least—

Mr. Breithaupt: I don't quite understand, Mr. Chairman. I would presume that, of course, estimates as they are here will be printed. Is that not to be?

Mr. Chairman: I'm not referring to estimates, it is the parliamentary conference. I think it would be useful to have a recording of it for members who are tied up in estimates and in other proceedings. We haven't been able to find out whether or not that is the intention. I have had two conflicting statements.

Mr. Breithaupt: I would think proceedings of any such conference would be maintained by the persons running the conference, but we will have to find out.

Mr. Chairman: If the committee would like me to, I can make inquiries and express the opinion of the members of the committee that if they are not going to be recorded our committee would at least express the

view that it would be useful to do so. Does that meet with approval? Fine.

Mr. B. Newman: We are continuing, are we?

Mr. Chairman: Yes. You are on the list, but I rotate. Mr. Davison is next.

Mr. M. N. Davison: I have a question about guarantees and what a gaurantee is worth in the province of Ontario, especially Hamilton Centre. It deals with a brand of wrist-watches, a Seiko watch, that was being sold by a company by the name of Consumers Distributing Company, which has a number of outlets in Hamilton and other places in the province. They were selling this wrist-watch for $234.

It appears that Seiko Time Canada Limited was sending the same watches to authorized distributors at a retail price of $350. The watch was very expensive, but had all of the normal things like guarantees associated with it.

[12:45]

People from Hamilton Centre then went to Consumers Distributing, bought wrist-watches for $234, had them on their wrists. Then, if problems developed and when problems developed with the watch and they took it back to try and get the guarantee honoured, they were told: "No way"—This is what Seiko Time Canada Limited told them —"You bought your wrist-watch at Consumers Distributing. We don't like what Consumers Distributing is doing. We filed a suit against Consumers Distributing. Too bad." So you have a court case that has interrupted a guarantee on a wrist-watch.

I want to know what the ministry thinks about that. Don't consumers, when they buy something in good faith, have a right to a guarantee? Why aren't they getting a guarantee? How is it that Seiko Time Canada Limited can use some court action as an excuse for not honouring guarantees, no matter how the watches were distributed in this province?

Mr. Simpson: Mr. Chairman, has this been brought to the minister's attention for investigation?

Mr. M. N. Davison: I have no idea.

Mr. Simpson: That's what we would like to do, quite frankly. The Seiko timepiece is considered an excellent timepiece and I would like a chance to look into the matter and we would be delighted, if there s something we can do to be hepful, to do it.

Hon. Mr. Drea: If the guarantee is by Seiko.

Mr. Simpson: They should be guaranteed by the company.

Mr. M. N. Davison: One would think so, but what they are saying is because we are suing Consumers for selling it at this price we aren't honouring it. They have instituted a $1 million damage suit. They have an injunction against further acquisition and selling of watches; and advertising of watches. There's a countersuit by Consumers for $1.5 million.

In the process of all this court wrangling about it, it is the consumers who are being ripped off; people who bought watches can't get the guarantee on it. I would appreciate it if you would investigate that.

Mr. Simpson: We would be happy to, Mr. Chairman.

Hon. Mr. Drea: I haven't heard about it, as such, for a long time. That practice by the corporation, when its product is sold in a discount house or sold under some circumstances that are quite conventional, but they didn't like it or their other dealers were protesting about it, is something I haven't heard about in 15 years.

Interjection: They should be two quite separate matters.

Hon. Mr. Drea: I haven't heard it in about 15 years. It seems to me that kind of thing was settled.

Mr. M. N. Davison: He needs to sit down with good old Seiko and tell them something or other.

Mr. B. Newman: Mr. Chairman, I wanted to ask if there have been problems with various types of scholarship funds to which the parents contribute while their son or daughter is at an early age and it guarantees them a complete college education.

Hon. Mr. Drea: Perhaps Mr. Thompson might come up with something, but while it is a business practice, it's really an insurance policy.

Mr. Thompson: It comes under the securities commission.

Hon. Mr. Drea: We didn't have any, but I—

Mr. B. Newman: If you can tell me who to get in touch with, I would be glad to do it.

Hon. Mr. Drea: Yes, I will have somebody from the securities commission look into it. It seems to me, in the back of my mind, I had one across my desk just a little while ago that was settled quite amicably. There was a communications difficulty in it.

I will have somebody contact you on that, Mr. Newman.

Mr. B. Newman: I see ads like this and I have also had a constituent who was involved and asked me for guidance on it at one time. Whether this is legitimate or not, whether they live up to their promises, I wouldn't have a clue. If you can have someone get in touch with me, I will be appreciative of that.

There is another thing I wanted to ask you. We discussed Bestline. Is Amway in any way a similar type of operation?

Mr. Simpson: We gave this consideration some years ago when the Pyramidic Sales Act was put in operation. It's been subject to a number of reviews since and the conclusion of our lawyers is that it is not. It is a multilevel selling proposition. Right now, the pyramid sales come under the Combines Investigation Act and the monitoring effort has been taken over by Consumer and Corporate Affairs Canada. They are now keeping an eye on the situation.

Mr. Chairman: They sell very good products, Mr. Newman. My wife would be very much against the ministry if something happened to Amway.

Mr. B. Newman: You'd have her to deal with.

Hon. Mr. Drea: Seriously, there is a problem in this area. It's probably because of the difficulties in the past with the pyramid sales that people keep coming to us and saying, "Look, this one is exactly the same as Bestline. We had a group meeing; all you did was switch the name." This is how they see it.

The media are particularly concerned because they get the advertisements for the general meetings and so forth. We do try to reassure people and we do monitor the situation to make sure that that multilevel type of scheme does stay multilevel and does not penetrate over the line.

We also look at that on the basis of the federal government because as you know now, the federal government doesn't allow it, we're out of the business. You are into an automatic violation. But, from time to time, there is a great deal of concern about similar circumstances, which I may say in fairness to Amway, don't work out. They have not penetrated beyond the rules but there are so many similarities at a basic level that from time to time, as I say, there is a public concern in an area.

Mr. B. Newman: I had a party who questioned me last Sunday on the thing and I told him I would follow up.

I have another question that I would like to ask if I may, concerning packaged tours. People buy a package and then they find that the package doesn't quite deliver as they were originally told. Is that much of a problem with your ministry?

Hon. Mr. Drea: I'd just say, very quickly, when we first brought in the Travel Industry Act everybody was profoundly relieved that the airplane was there and that the hotel was there or you could get your money back.

Over the years there has been, as is always, a revolution with rising expectations, because the basic problem has been solved. Now, the concerns and the complaints are about the hotel room didn't have exactly the same window view, this type of thing. Mr. Simpson will tell you what we are doing about it.

Mr. Simpson: On this one, there are some complaints every year and we've looked at them and talked to a number of our major wholesalers in Ontario. They are having a very tough time these days with offshore hotels and land operators—operators in the islands, in various places. They are having problems getting the contractual commitments met in some instances.

Our wholesalers here have rigorous contracts. They cover their needs. They book for what they need and then they will find that in some places people have not left the hotels they were supposed to leave and this, of course, is covered by different laws in every foreign destination.

There are problems now and again but, in terms of what we would get every year in the aftermath of the Christmas and the spring break, they are a handful of complaints. But there are some. People like Suntours and so on are tearing their hair out.

It goes in cycles, apparently. This year looks pretty good. I think they had their hassles over the last couple of years and I think they are in better shape now.

Mr. M. N. Davison: A brief supplementary, Mr. Chairman. When is the ministry going to publicly respond and completely respond to the Ontario Travel Industry Conference proposals which were sent to him September 15, 1978? I understand there have been private meetings.

Mr. Simpson: We have had a number of meetings with representatives of the industry. There are regulations in form that have been prepared for consideration by the minister. I only hesitate because that's where it's at. The industry is very, very happy with the proposals. They do involve some tightening up of accounting sorts of things.

Mr. M. N. Davison: I have read the OTIC proposals.

Mr. Simpson: They are not the same.

Mr. M. N. Davison: And seen the responses.

Mr. Simpson: They would not come out exactly the same way but I can assure you that the industry—

Mr. M. N. Davison: When do we move from these private discussions to some sort of public explanation of the government's position?

Hon. Mr. Drea: The government's position quite frankly is very sympathetic. It's just really filling out the regulations that meet the particular proposals of the industry without inflicting undue hardship on somebody. One of the difficulties there—that's why it takes time and hopefully this is ending—is that the industry before didn't speak with a single voice. It was terribly fragmented. Now they're coming together. That is something frankly, which, if we'd had it in 1975, we would have a much better bill today. But it wasn't there, and we had to act upon what it is. I think it's to the credit of the industry that rather than sitting back and saying, "Okay, we have a bill, that's all we're going to do," they have done something.

Mr. Philip: The questions I want to ask—and I've supplied the minister with some of the information that I had so I think that may make it a lot faster to deal with the matter. I'm concerned about the so-called gas-saving devices that are being marketed to people now very, very concerned about saving energy. It particularly affects some of the suburban areas such as my riding and the Scarborough ridings where people must use their cars and therefore are looking for ways of cutting down on gas costs.

According to the London Free Press, there are about 100 gasoline-saving devices being marketed in Canada. The National Research Council of Canada has tested about 35 of these. Martin Friend of that same body has a list of about 65 more brand names, of which he has tested a good many.

Invariably the results come out the same. They do not live up to expectations. They do not live up to the claims which they are making. The claims include such things as increased gas mileage, improved acceleration, reduced pollution, smoother engine operation, and even longer engine life.

According to Friend, about five per cent are being manufactured in Canada, which was news to me because I thought they all came from outside the country. Apparently, some of them are being manufactured here.

The Ontario Motor League has publicly expressed concern about it. I showed you the letter I received from the Ontario Motor League. The Ontario Motor League's magazine pulled an ad for one such device which they tested and found was absolutely of no value, or it didn't live up to the expectations. A lot of these devices are being sold in journals—and admittedly American journals, therefore we have no direct control over them.

It seems that there's a fairly identifiable pattern to the kinds of ways in which these people merchandise their wares, and the kinds of claims they make; such things as "easy to install," "independent research laboratory tested," as well as endorsements from people whose names no one recognizes, and with no date attached to the endorsements.

My question is, I'm wondering what action your ministry is taking in terms of education, so that the public is made more aware of the problems it faces with these? Secondly; are you willing at present, or soon, to make a fairly clear public statement that your ministry will pursue vigorously, under the Business Practices Act, section 2, any violators of this? Perhaps including in that statement a strong warning about what the penalties are, because I would imagine that a year in jail would be a deterrent to someone who wanted to manufacture something in his garage and pawn it off—

Hon. Mr. Drea: Wrong. It's not a year in jail, it's a year working in a park.

Let me go at it from two points of view. First of all, the vast preponderance of these devices is from offshore. As such, they're very clearly within the federal sphere. The National Research Council, with all of its technical standards, is doing a very good job.

[1:00]

Secondly, the ones that are here—we've been at this since 1975. We have been watching them come and go. The reasons that you haven't been hearing too much about it is that we've kept some off the market; they were prohibited. Mr. Simpson will go into it in some detail. We attack them particularly on the basis of their claims. We don't attack them on the basis of being a mechanical device; it is what the mechanical device is supposed to do. You would go in a variety of ways. I don't know what the prices are today but the prices aren't really that exorbitant. It's not a $100 ticket item.

Mr. Philip: Some of them go up to $60 or $65.

Hon. Mr. Drea: Okay, but they've been rising in price.

There's no question we're going to have to really keep our eye on this because people

do tend to panic because of real or supposed shortages and price increases and so forth. We have acted in this province on ones that were of Canadian origin, particularly on the merchandising approach and the claims. On one of them, which Mr. Simpson may want to outline, I don't know if the ease of installation was a criterion, but the claim and the signatures, et cetera, were. We attacked them on that basis. The commercial relations appeals tribunal heard the case; they objected and that matter was disposed of.

The difficulty you have raised is a lot of of them can be purchased in a way over which we have no control. Also the advertising claim cannot be monitored. We can protest to the American postal authorities about a magazine ad or they can look at it, but it becomes a very difficult thing for a prosecution—namely, at which point did the offence take place. Under Canadian law or over there, under American law?

This isn't passing the buck; we've had this with phoney land sales. There was a gentleman years ago who stayed in Montreal. He wasn't guilty under Quebec law, he was guilty under Ontario law, but he never was here. The real offence was in Illinois where the magazine was published. The American civil law said it was in Ontario.

What we did was once or twice a year the OPP went down to Montreal if anybody had complained and their money was given to the OPP and was refunded. You have that problem too. But we are on top of it. Maybe Mr. Simpson, who's been very active in this—

Just one other thing—where we do it. I think this is very important because of your particular specialties. MTC does the testing. In the cases we've had it isn't necessarily just a lab test. It is done on cars of MTC and there is a measurement—before, after, et cetera. It's not necessarily just a lab test. I think the NRC's are lab tests. I have no quarrel with lab tests. But on the ones that have been done here, the Ministry of Transportation and Communications has done the actual test work for us and their test work has been sustained by the commercial relations appeal tribunal.

I think that's a very important consideration in enforcement. It's not a question of going into court and then having to do all the expert evidence and so on.

Mr. Simpson: I can't add very much to what the minister has said, except that in this area we have worked on these things in conjunction with the federal government, with the NRC. You're quite right, the NRC has considerable expertise in this area. The federal Consumer Affairs department deals with them under the misleading advertising sections, with the very significant penalties there. That's what these things basically are all about—straightforward cases of misleading advertising.

We've passed on a number of situations to them of late. They just finished a prosecution in Montreal of one that was identified in the Consumer Reports issue of November 1978 and secured a fine. I believe they have quite a number under investigation at the present time. Since they've developed quite an expertise in this, we think by and large our role is to facilitate their work where it's a national situation because, as the minister says, these things are imported by and large into the country.

The situation we dealt with was one that was basically a high-flyer right in Ontario, so we thought we would have a go at this one. We were successful at the tribunal, but one of the problems, as the minister indicated, is an evidentiary problem in litigation. Surprisingly enough, we have found, with the device we did battle with at the tribunal, that there are situations, particularly with one kind of device, the fuel pressure regulator, where some economy can be achieved at the expense of car performance in terms of acceleration, quick starting, moving out to pass, and so on. This is one of the things we objected to—that in order to gain whatever little savings there were you had to sacrifice some aspect of the performance.

What you also get clearly, and make no mistake about it, is a flood of testimonials. You get them. A lot of the people who buy these things are tinkerers; they are the kind of fellows who like this kind of stuff. They read Popular Mechanics; they hook them up themselves; and almost invariably the guy that sells them sticks a little piece of paper in the box that says, "As well as putting the device on, what you have to do is this: don't make jack-rabbit starts, don't make quick stops, and moderate your driving habits."

From our experience, I know you can get testimonials galore from people who have achieved savings. Whether or not they were related to the gas-saving gismo or to the fact they moderated their driving habits just isn't clear.

Mr. Philip: Some of them will have instructions for installation. If you simply followed the instructions and didn't install the device at all you would get better gas mileage—probably lower performance, but better gas mileage.

Mr. Simpson: That's what I am saying. The instructions are to "drive smarter, fellow."

Hon. Mr. Drea: You can get glowing testimonials if you take your foot off the accelerator. But you get the combination, when you get into evidence, where the person says, "I was getting 15 miles to the gallon; I installed this; I kept sheets because I wanted to be accurate; and now I'm getting 20 mpg. It's a great thing."

Then you get into the question, did you change your driving habits? It becomes a very subjective thing.

I think the point of attack, if these people were to advertise in this manner, is that it "might be helpful to your car." If they do that, and if you want to tinker with your car and experiment, fair game. But I think you are absolutely right: these things are not sold on this basis. Some are; there are a few around in automobile stores that are on that basis. But the vast majority and I think that's what you are getting at is, "It's a miracle product that will meet the emergency situation at just a modest outlay" et cetera. Those claims just don't hold up.

Mr. Philip: I am getting back to the question I don't think the minister has quite dealt with. In his opening remarks the minister dealt with some of the education the government is doing. I can fully understand the problems you have with prosecuting companies and so forth.

I will simply ask one last question: are you prepared to have your staff prepare something in the advertisements and various other informational and educational materials you turn out to deal with this particular topic as one of the problems?

Hon. Mr. Drea: Yes. We want to do this in conjunction with the federal government to see if we can't get a national handle on the situation. I think it is very important.

I want to do that not necessarily in terms of condemnation of existing products, but rather to take a positive approach, going into what exactly consumes gasoline in the car, et cetera. I want to take the other approach—rather than saying don't buy this, this and this. If you do that, you are stuck down to the existing product, they change the name, and you are back again.

Mr. Philip: I can appreciate that approach. I saw what I thought was an excellent pamphlet turned out by the Canadian Automobile Association on how to save gas. I am suggesting to you that in addition to that you might describe the characteristics to look for.

Hon. Mr. Drea: I didn't mean just saving gas; I meant the characteristics of these things dealt with in a positive way, rather than saying brand X really doesn't do anything, or brand Y—just to take a positive approach on the whole subject.

Mr. Acting Chairman: Thank you, Mr. Philip. We are on item 6, business practices. The time for adjournment is here. Shall item 6 carry?

Mr. Breithaupt: Mr. Chairman, I think there is just one other point. That can carry, but I regret we have not been able to review the work of the Commercial Registration Appeal Tribunal or of the technical standards group. I hope the next time around we will be able to give those two a little more prominence.

The last question I have is really the one everyone in this room wants to direct to Mr. Swart, and that is, what's in the box behind him?.

Hon. Mr. Drea: If I may say, just before we adjourn, and I wish some of the other committee members had stayed, there is a matter I want to share with the committee I was apprised of this morning. I suppose business practices is as good an area as any.

I was apprised by a telephone call from the president of Loblaws this morning at about five or ten minutes after nine, that commencing Monday in the city of Ottawa, the Loblaws organization—and I am a little vague on the brand of merchandising identification, but the Weston organization—Loblaws, is going to open a rather mammoth, large size supermarket with electronic scanning at the cash positions. There will be a significant difference between the scanning operations being done now pretty well across the province, and this one.

In this one, 80 per cent of the products in the store will not have a price sticker on them. That is virtually a complete reversal of the present practice.

Mr. Breithaupt: Shelf pricing will remain?

Hon. Mr. Drea: Shelf pricing, but not individual pricing. In the past, it has been about that the other way. There are certain commodities such as baby food that don't carry the UPC code. Coca-Cola cans do not have it, but this one is a straight one with no individual price on it.

Mr. Breithaupt: Are you informed about the tape proposed?

Hon. Mr. Drea: I am sending someone there on Monday.

Mr. Breithaupt: Presumably, if the tape contains the name of the item and the price,

then this matching up is, perhaps, acceptable. It will be interesting to see how this happens because we all want to make sure everyone has full consumer information on pricing and purchasing.

Hon. Mr. Drea: I don't know what particular type of tape they are going to use. As you know, in the scanning business there are a number of tapes. There have been complaints about some, et cetera.

They asked me if I would like to go to the reception and unfortunately I can't be in Ottawa that day, but I am going to have somebody there. I wanted to share that with the committee now.

I compliment Loblaws. Mr. Nichol said he didn't want me to read it in the media, so he was telling us what he was doing. Without having a chance to go there, I don't exactly know the detailed questions on it.

Bear in mind, some time ago, there were some guidelines developed. This ministry did participate with the CAC and the retail clerks' trade union in the thing. There were some guidelines that were supposedly to be developed by the Retail Council of Canada to see how this would work. The CAC is quite vehement and has been onto me for a couple of months, that those guidelines really never were followed in terms of it being a test market and so forth.

I raised this point at the federal-provincial conference. It is a matter of priority, as I said the other day, along with the electronic data transmissions or transfers and the question of the electronic scanning. All I am really doing with the committee now is sharing with you the news I just received this morning. I view it with some concern. I want to look at it and, indeed, the committee may want to discuss it, if there is time left, or we may have to discuss it in the Legislature.

Mr. Breithaupt: It may well come up in the Legislature once the situation is under way. It may be useful for you to consider making a statement once any problems in the operation are sorted out, if such is the case.

It may really be a very happy experience in seeing if this mechanical operation can answer the consumers' concerns. If it does, fine. Let's see what happens.

Hon. Mr. Drea: I have to be realistic. If one big operation is going in with one big store, Mr. Breithaupt, I can tell you the equipment is already ordered for virtually everybody else.

Mr. Swart: I want to say, I too have some concern and would ask if you might report back to us before we have finished with your estimates, with what information you have. You may not have a great deal.

[1:15]

Hon. Mr. Drea: If I can, I will share with you what I have, but we are going to have to take a look at it. It is somewhat detailed. Those guidelines were developed; and I knew they were voluntary guidelines. There has been a continuing controversy, particularly by the CAC. Mrs. Reppert, from your area, even as late as a month ago, did give me a considerable amount of information on their findings. It is going in western Canada. So I may not be able to give you a complete report by the time the estimates are over, but I will share with you whatever we have. It is not something that is going to be settled in the next 10 days.

Mr. Swart: No. May I suggest that you do some survey with the customers, too; with the consumers?

Hon. Mr. Drea: We have, but not on this one.

Mr. Swart: On this one I am saying, when it is going in, in a major way.

Hon. Mr. Drea: That is a complete reversal.

Mr. Swart: But I have some concern, too. I have some concern—I know time is going—on the fact that the labelling, ultimately your jurisdiction, the labelling on most of the products now doesn't even say whether they are made in Canada. The consumer needs more information, not less. I am afraid that it will adversely affect the consumer. So we will wait for your report on that.

Mr. Chairman: Before adjourning, I have two procedural matters that I would—

Hon. Mr. Drea: Are you going to give us credit for this, or are you going to keep this secret?

Mr. Chairman: No, no. I am going to give you credit for it.

Hon. Mr. Drea: This makes up for the deficiencies of yesterday.

Mr. Chairman: I will even call the vote then for you, Mr. Minister, and then you can leave while I deal with the procedural matters, if that is your pleasure.

Items 6 and 7 agreed to.

Mr. Chairman: Do you wish to carry item 3, or did you have some specific questions that you wished to raise?

Mr. Breithaupt: I have a great variety of questions, Mr. Chairman, and I move that item 3 be carried.

Item 3 agreed to.

Vote 1502 agreed to.

Hon. Mr. Drea: If you have additional questions on any of these matters, if you would just write them out, I would be very glad for either Mr. Thompson or Mr. Simpson to provide the answers.

Mr. Breithaupt: There are a lot of things that can be asked, and if not at this time, another.

Mr. Chairman: We will be dealing on Wednesday with vote 1503 and hopefully we may be able to start on 1504.

I would ask the committee to—

Hon. Mr. Drea: We just carried 1503.

Mr. Chairman: Item 3.

Mr. Breithaupt: I thought, Mr. Chairman, that we were just going to carry 1503. But if there are concerns, I am quite happy to let the schedule be changed. I am content to carry vote 1503 at this point, because I don't think there will be sufficient time, really, to look into this area this year. We simply can't do everything in the time available in a ministry that has so many aspects.

Mr. Chairman: I notice that the NDP critic is not present, and normal protocol would be for me not to move an item unless both of you are present. So perhaps you can move that—I realize that it causes staff problems by having them come back perhaps when they may not be needed.

Hon. Mr. Drea: There's no staff problem.

Mr. Chairman: Fine.

We have six private bills. I would ask permission of the committee that we book these bills on October 26 and November 2. That will be the first Friday after the minister's estimates are completed, and the Friday after that.

Motion agreed to.

Mr. Chairman: We also have a problem that our committee had agreed—and perhaps Mr. Breithaupt can inform Mrs. Campbell of this—our committee had agreed during the deliberations on Bill 19 to visit Park Public School. We have an invitation from Mrs. Kitson to go next Wednesday. It may be extremely difficult, with the parliamentary conference on here next week, to meet that engagement, because there are some fairly interesting sessions.

My recommendation to the committee would be that we express our regrets to Mrs. Kitson, tell her that we would still like to visit the school, and that having conferred with both Education critics, the clerk will get back to her on another date.

Motion agreed to.

The committee adjourned at 1:18 p.m.

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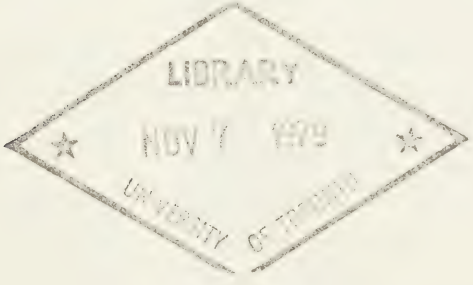
Ontario

No. J-8

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of Consumer and Commercial Relations



Third Session, 31st Parliament
Wednesday, October 17, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Hansard subscription price is $15.00 per session, from: Sessional Subscription Service, Printing Services Branch, Ministry of Government Services, 9th Floor, Ferguson Block, Parliament Buildings, Toronto M7A 1N3. Phone 965-2238.

Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 10:08 a.m. in room 228.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Chairman: I call the meeting to order. We are dealing with the estimates of the Ministry of Consumer and Commercial Relations, for which we have 13 hours and 10 minutes left. We adjourned on vote 1503, item 1. We have carried all of the items in vote 1502.

On vote 1503, item 1; technical standards program, program administration:

Mr. Breithaupt: I want to speak with respect to vote 1503. We had acknowledged there apparently was not time on this occasion to actively review the details of this vote. I realize that it has been passed over before in earlier years without much of an opportunity to talk about the various component parts of this program. However, it would appear that there is really not sufficient time to do that now on 1503.

Mr. M. N. Davison: Could I make a suggestion on 1503: that we leave it now and at the end, we may have time? If we don't carry it now we could put it at the end of the schedule. If we deal with it in that way, there may be a chance to get to it later.

Mr. Breithaupt: That's satisfactory with me if there should be time. It's whatever Mr. Chairman would wish. I'm prepared to carry it, with the clear commitment to Mr. Yoneyama and the others who keep showing up that next year we will have the opportunity of looking at it in some detail. I believe we have an obligation to do that. Certainly, if there would be extra time at the end of the cycle that would be fine too.

Mr. Chairman: Your understanding, then, is to carry it?

Mr. Breithaupt: I'm content to carry it. If Mr. Davison wants it stood down with the prospect of perhaps getting to it in the last day of our cycle, that's fine too.

Mr. M. N. Davison: One issue that stands out is aluminum wiring.

Mr. Chairman: If we stand it down then there's no problem. No one can raise any objections to our dealing with it at the end.

Mr. Breithaupt: Let's do that.

Mr. Chairman: If we don't have time at the end of the estimates we'll simply carry it. We'll stand down vote 1503, item 1?

Mr. Breithaupt: The vote, 1503.

Mr. Chairman: You wish to stand down the whole vote? Fine, vote 1503 is stood down. We'll be moving to vote 1504.

Tomorrow, I'd remind members, we'll be dealing with 1505. Condominium Ontario officials have been invited, or at least we advised the minister we would be dealing with that matter.

Mr. M. N. Davison: On the question of Condominium Ontario: do we know from the ministry yet who will be here from Condominium Ontario? Will it just be ministry staff or will it be representatives of Condominium Ontario?

Hon. Mr. Drea: We'd planned to bring ministry staff. Is there somebody else you want?

Mr. M. N. Davison: I would imagine the top two or three officers of Condominium Ontario would be appropriate people to have.

Hon. Mr. Drea: There aren't two or three top officers, it's an interim board. Mr. Simpson sits in on it. Do you want the chairman?

Mr. M. N. Davison: Mr. Batchelor is the chairman?

Mr. Chairman: Mr. Batchelor is the obvious person to have here.

Hon. Mr. Drea: Yes, do you want him.

Mr. M. N. Davison: Is there a chief administrative officer?

Hon. Mr. Drea: No.

Mr. M. N. Davison: Is there something like that in the corporation?

Hon. Mr. Drea: Mr. Batchelor is acting. There's still that interim board situation.

Mr. Breithaupt: He is really the executive leader of the operation until it does sort itself out.

Hon. Mr. Drea: For another two or three weeks, yes.

Mr. Breithaupt: He's got to be the person then.

Hon. Mr. Drea: Do you want Mr. Batchelor?

Mr. M. N. Davison: Yes, if it's at all possible.

Mr. Breithaupt: If we could.

Mr. Swart: Point of order: Last Thursday the minister indicated that he would table a report. Could we have that report?

Hon. Mr. Drea: Sure, I've been trying to do it all day.

Mr. Swart: There were two items to be tabled. One, I believe, was an investigation into the matter that I raised on the issue of giving the wrong price. Secondly, there was to be the report tabled on which the reply was based.

Hon. Mr. Drea: Do you want me to read it or do you want me to table it?

Mr. Swart: Read it.

Mr. Chairman: It's supposed to be tabled, but if Mr. Swart wants it read then please read it. Do we have copies Mr. Minister?

Hon. Mr. Drea: Yes.

Mr. Chairman: It would be easier if we hand out the copies and then have you read it.

Hon. Mr. Drea: This was just to be read in. There's not a copy of this. I can give it to Mr. Swart after I read it.

Mr. Swart: It will be in Hansard. That's fine.

Hon. Mr. Drea: You can have this. The rest of it is all in report form. Okay?

Mr. Swart: That's fine.

Hon. Mr. Drea: Mr. Swart had asked for a report responding to his original memorandum on bathroom tissues and paper towels. I have not written replies in the form of an open letter, but today I am making them public. I think there's enough information in them to be disseminated beyond Mr. Swart's particular letter.

The letter which I am tabling from myself to Mr. Swart, dated September 11, 1979, basically constitutes that report, with the exception of the last line, in which I request an apology to the E. B. Eddy Forest Products Limited because the company was accused of "price gouging." The information I had received at that time had not warranted accusation of tissue ripoff.

With regard to Mr. Swart's accusation of giving misleading information, I have looked into the matter thoroughly, and first I would like to read out information from a letter of August 27, from Mr. R. J. Tinnish of E. B. Eddy Forest Products Limited. "Soft 'n Pure: US dollar list prior to April 30, 1979, $21.50; list after April 30, 1979, $21.50; list September 1979, $23.40."

This information that was provided by the E. B. Eddy Forest Products Limited, clearly stated the list price in September 1979 for Soft 'n Pure bathroom tissue would be $23.40 US. My staff used this planned price because there had been an increase in Canada in April and comparable data was wanted.

I'd like to point out that Mr. Swart was aware of our reason for using this figure, because it was noted in my letter to him of September 11 which was tabled, that the prices of tissue products in Ontario were increased by 10 per cent at the end of April. The same increases were scheduled for US prices. However, competitors delayed increases until August, therefore the increases in the United States are going into effect only now and will narrow or erase the net price differential between New York state and Ontario.

Regarding Mr. Swart's comments on October 11, 1979 about misleading information. We checked with Mr. Tinnish the next morning, Friday, October 12, 1979. He informed us, as he had indicated to Mr. Swart the day before, that his company had been planning a price increase for some time on Soft 'n Pure to $23:40 US per case, but the competitive pressures had held down a price to $21 US. He also informed us that the price increase mentioned in his original letter to us was predicated on a price increase announcement to the trade dated July 12, 1979 which moved the price of Sharman—Soft 'n Pure's competitor in the United States—to $23.40 US. However, this price increase has not yet taken place.

[10:15]

It should be noted the comparisons between prices in the United States and Ontario run into many difficulties—metric-imperial differences, significant differences in quality and weight, and brand differences. I'm including a table, prepared as a result of our investigation of the questions raised by Mr. Swart, which illustrates these difficulties in the case of bathroom tissues and paper towels. Tissue products are what are known in the trade as traffic builders with continuous specials involving price differentials between stores in urban centres, even in the United States. Buffalo has lower prices than for example Rochester, Utica and Albany.

Similarly, specials in Canada are regularly available which provide tissue products at or

below the regular prices of those products in the US or in Buffalo. I would also like to point out that depending on where they shop, be it in the United States or in Canada, consumers can realize substantial savings. For example, it is possible to buy a variety of food items at the same price or even at lower prices in Toronto than in Buffalo. To illustrate this I am including another table.

I would also like to table the data concerning after-tax profits of manufacturing corporations from which I read last Thursday, October 11, 1979.

In addition, there were two other questions asked, by I forget just whom. One question was did we take the entire report based on company information. The answer is no. We even sent people to Buffalo, New York. What we talk about in terms of prices in Buffalo is on the basis of sending a staff person or having a staff person do the pricing there.

Secondly, the comparisons on all the products were obviously not obtained from the E. B. Eddy Company. They were obtained in a great many different ways. That basis for the report is not mentioned and I wish to make it clear.

Mr. Chairman: I will allow the opposition parties an opportunity to respond to the report the minister has tabled either immediately, or my suggestion would be that you respond after having had time to analyse it, possibly on Thursday or Friday.

Mr. Breithaupt: It may be that Mr. Swart has a couple of particular questions on this theme because of his own interest and background in it. If he would like to place them now it's fine with me.

Mr. Swart: I'm concerned that the minister has really skated around the issue and has not said he would do what he said he would. Is it not correct, Mr. Minister, that the statement I made on October 11 was correct? That the price of Soft 'n Pure to the supermarket chains at the time of my letter to you was $21.50, was also $21.50 at the time of your letter to me and was $21.50 at the time this committee met on October 11. Is that not correct?

Hon. Mr. Drea. No, it is not correct, Mr. Swart. You asked me; I gave you an answer. I'm just going to tell you why it is not correct.

In the first place, the first question you asked, that at the time of your writing your letter it was $21.50, that is correct. At the time I wrote back to you, on that date, on the information that was supplied to us and on the information in the trade, the price was to be $23.40. This price subsequently did not go through and it stayed at $21.50.

On the basis of what I wrote to you what I wrote was correct, and I will stand by it.

Mr. Swart: Mr. Chairman, that price never went. My statement was that the price was $21.50 at that time and it was $21.50 on October 11. That was correct, and the minister must admit that's correct. What he has just said was misinformation, wherever he got it. Perhaps it's just that he does poor checking, that he takes it from one source, but the price was $21.50 on all those occasions. I was right and he was wrong. I would think he would be mad enough, whether it was a mistake by E. B. Eddy—and it wasn't because they were proceeding towards that price—or whether it wass a mistake by you, you did not do the proper checking. The price was $21.50 and you gave me a price. You didn't quote E. B. Eddy, you gave me a list price of $23.40.

I can quote from your letter, if it's necessary. You said: "If a comparison is made between the list price of E. B. Eddy Forest Products in the United States and in Ontario, the results are as follows: Soft 'n Pure, US dollars, $23.40." That statement is incorrect. You told me if it was incorrect. if it was false information, you would be the first to admit it. That letter was false information; and I repeat that.

Hon. Mr. Drea: Mr. Swart, on page two of my letter to you, it says: "For example, if a comparison is made of the list prices"—the list price that E. B. Eddy gave at that time was $23.40.

Mr. Swart: But that wasn't the list price in the United States. You know it wasn't the list price in the United States and you should admit it. They said they were going to go to that list price, but it was not the list price. You informed me it was the list price and that is incorrect, and you know it is incorrect.

Mr. Chairman, if you will permit me to continue, very obviously the minister knows he gave misinformation and he's not prepared to admit he did. I think that's not worthy of a minister.

He did not quote the price of E. B. Eddy, he gave me the list price, which was not the quote. Look on page two of E. B. Eddy.

I want to go further this morning. I want to again accuse the minister of giving me misinformation in a letter he wrote to me on October 9 concerning prices of soaps and detergents.

Once again, he wrote a letter that was mildly abusive to me. Then he told me in

the letter: "We checked the wholesale price of the products mentioned in your letter and came up with the following data: price in New York state for all detergents—50 ounces in the United States, 1.42 kilograms in Canada—suggested retail price in the US $1.75, price in St. Catharines $2.89; wholesale price $1.63 in the US, New York state, the wholesale price in St. Catharines $2.17."

I point out to you, Mr. Minister, that statement is incorrect. I checked no later than this morning and I saw the list price. The wholesale price of All in New York is $1.38. I accuse you again of giving me misinformation to protect the corporations. You have not done a thorough investigation into the requests I have made to you. You have given me information solely to back up the corporations and you are in no way protecting the consumer on these matters. You should do a thorough investigation and give me the proper prices.

I repeat that the minister knows the list price of Soft 'n Pure in the United States was $21.50. No list price was ever quoted in the United States at that time for $23.40.

Hon. Mr. Drea: To reply to you, Mr. Swart: In the very paragraph after the list price, which I said was supplied by Eddy, on page three it says: "We were informed by an official of E. B. Eddy Forest Products Limited that prices of tissue products in Ontario were increased by 10 per cent in April 1979." It says, "We were informed." That's what I said. I said it very clearly in the statement.

Mr. Swart: You were informed, but you didn't say the list price you had just got was from them.

Hon. Mr. Drea: I did, Mr. Swart. It says, "We were informed by E. B. Eddy Forest Products." How much more you want I don't know.

Mr. Swart: You said it had gone up 10 per cent, but you did not say the list price you quoted was from E. B. Eddy. Even if it was, it was wrong; and you ought to be man enough to admit it, as a minister. You gave me the wrong price.

Hon. Mr. Drea: I did not give you the wrong price on the basis of what I had, Mr. Swart.

Mr. Swart: Oh but it is the wrong price; right? It was the wrong price.

Hon. Mr. Drea: The company supplied me with information.

Mr. Swart: Was it or was it not the wrong price that you gave me, the price of $23.40?

Hon. Mr. Drea: It was not the wrong price at that time.

Mr. Swart: Was the list price in the United States at that time $23.40?

Mr. Chairman: I would ask all comments and questions to be directed through the chair, not directly back and forth between members of committee.

Mr. Swart: The minister is being dishonest, Mr. Chairman.

Hon. Mr. Drea: Please.

Mr. Breithaupt: It's a harsh word.

Mr. Swart: But it's true.

Hon. Mr. Drea: The E. B. Eddy letter that came to me—and I'll be very glad to give it to you, it's right here—is dated August 27, which is only a few days after I received the letter you wrote to the Premier (Mr. Davis). As you know, the Premier was away and I didn't get his letter until towards the end of August. They have it very well detailed in the letter.

They went to great lengths in the letter to say, on page three, that they were informed by an official of E. B. Eddy that as of that date that was what they were going to do. In October, because their company is the smallest in the United States—Procter and Gamble was supposed to go ahead with the price increase but the producers in the United States have decided they will not go ahead—

Mr. Swart: Procter and Gamble, what has that got to do with paper stock?

Hon. Mr. Drea: I am telling you. The information I received in August—

Mr. Swart: Procter and Gamble?

Hon. Mr. Drea: —as far as I am concerned is correct. If the things they said they were going to do in August did not come through in October, that was another matter. I did not mislead you.

Mr. Chairman: Mr. Renwick, on the minister's report.

Mr. Renwick: It is very difficult, when accusations are being made, to get it sorted out unless we've got the papers. I'm wondering, Mr. Chairman, whether it is possible for all the members of the committee to have copies of these documents so we can try to sort this out.

Hon. Mr. Drea: I gave them to the chairman to hand out.

Mr. Chairman: They were being distributed by the clerk.

Mr. Renwick: What is being distributed then? I'm sorry, Mr. Chairman, I was delayed in getting here.

Mr. M. N. Davison: I've been here and I don't have a copy.

Mr. Chairman: I have only two copies here.

Hon. Mr. Drea: I thought I gave you four or five.

Mr. Chairman: Mr. Breithaupt, do you have one?

Mr. Breithaupt: I am content, Mr. Chairman; I have my copy.

Mr. Renwick: What is this document?

Hon. Mr. Drea: You asked for a report on how we obtained the information, Mr. Renwick. It's all there. I read out how we obtained it.

Mr. Renwick: Thank you. I didn't realize it had been tabled and not distributed.

Then there was another letter to which you just referred; apparently your deputy gave it to you. Could we have copies of that letter?

Mr. Chairman: We will have copies made for the committee.

Mr. Renwick: Then I would like, Mr. Chairman, to have an opportunity, perhaps, at the convenience of the committee, to look at it and understand what's being said.

Mr. Chairman: Before you came in, Mr. Renwick, my suggestion was that it would be more appropriate for the opposition parties to have time to analyse these documents and to respond to them at a later time. Mr. Swart simply had a few questions that I allowed him.

Mr. Renwick: Could I ask one other question related to this same matter? I didn't want to get off on to some constitutional kick on it, but the minister was going to get, as well, a statement, in writing—

Hon. Mr. Drea: I sent the Hansard to the Attorney General and I am awaiting reply.

Mr. Renwick: —a confirmation in writing, of the opinion of your advisers to you about your constitutional position.

Hon. Mr. Drea: In order to be the fairest possible I sent the entire Hansard—the appropriate parts—to the Attorney General for a written reply.

Mr. Renwick: Oh, to ask for an opinion.

Hon. Mr. Drea: If I understood you correctly, you told me to get a written opinion. In order that the question be properly addressed I sent the whole Hansard, which had a number of questions in it.

Mr. Renwick: My specific request was that you had stated you had an opinion given to you orally and that you would get it in writing.

Hon. Mr. Drea: Yes, and that is in the process.

Mr. Renwick: I wonder how long that will be?

Hon. Mr. Drea: I don't know; I hope it will be soon.

Mr. Renwick: Presumably, if they did the research to give you the oral opinion it would be available, like this afternoon.

Hon. Mr. Drea: I don't know, Mr. Renwick. I sent it over there; it is in their hands.

Mr. Renwick: Oh boy; if you sent it over to that ministry it will be a long time. I haven't had a reply to a letter I wrote to them on September 4. Maybe I'll never get one.

Hon. Mr. Drea: Well you'll get one from me.

Mr. Renwick: I know we do from you.

Hon. Mr. Drea: I will search this one out.

On vote 1504, public entertainment standards program; item 1, regulation of horse racing:

Mr. Breithaupt: On the vote, Mr. Chairman, I think we should address our comments first of all to the matter of the regulation of horse racing. Of course, the most important single issue is the matter of offtrack betting. I think at this point we should commend the series of articles written by Jack Saunders in the Toronto Sun in early January of this year to outline many of the concerns with respect to the development of offtrack betting.

Mr. Ziemba: You would admit to reading the Toronto Sun?

Mr. Breithaupt: I don't know that one always reads the Toronto Sun, but one certainly sees the Toronto Sun.

The involvements, of course, developed from the circumstances in the state of New York where offtrack betting has been involved since 1970. As a result of the decision made by the former Minister of Agriculture of Canada, Mr. Whelan, the matter was sent for study to the Senate of Canada in January of this year. With the intervening election, it is doubtful whether any particular summation of the pros and cons and problems of this area will be before us for some time.

[10:30]

I recognize that the protection of the smaller racetracks is one of the major concerns with any implementation of this scheme. I would like to hear from the minister what approaches he has had with the successor minister, Mr. Wise, and if he has taken up

this subject particularly. What are his views on the consultation that may occur, and what are the time frames you expect, if you have any view on the subject, before this matter may be resolved one way or the other?

Will Ontario be making representations to whatever study body is developed, either by the Senate of Canada if that takes place, or—

Hon. Mr. Drea: That's been scrapped.

Mr. Breithaupt: This is what I wanted to know, and what the alternatives were for further opportunities to sort this out, in the minister's knowledge.

Hon. Mr. Drea: Taking you back to the events of last February, when it was widely heralded that a decision was going to be made, at that time my stance—and I think my stance is that of the government of Ontario—was that we wanted to see what the decision would be, on the basis of our concern about various aspects of provincial rights and so forth.

That decision that was expected in February did not come. Instead, the matter was referred to the study committee by the Senate. At that time we expressed the view that a further study really wasn't going to settle the issue. I expressed some concerns that there are some difficulties in the racing industry, more particularly in the thoroughbred racing industry, and that it placed me and the Ontario Racing Commission in a state of limbo, because if there was to be offtrack betting certain remedial things we would do would have to be done in conjunction with that. If there was not to be offtrack betting there were other things we were considering which would not be germane.

You are quite right, the situation dragged on until after the election. I have only had one discussion with the new Minister of Agriculture and it was pretty one-sided and somewhat informal. What he really wanted to know raised my eyebrows—but then this has been dragging on for seven years and has been clouded over by personalities so that many of the issues had been forgotten. What Mr. Wise wanted to know, on the basis of our having two throne speeches in support of offtrack betting, was who would run it.

As I said, I raised my eyebrows. I said: "We would run it; a crown corporation," et cetera. The reason for his query was that one of the proposals by the federal Department of Agriculture at one time—and maybe proposal is too strong a word for it; it was really flying a kite, it was the time the deputy minister read the speach instead of the minister, and there was the suggestion that offtrack betting with market area protection be a direct offshoot of the racetrack; in other words, it would be private.

We have never considered that. If you go back to the original study done by the now Deputy Treasurer when he was the deputy provincial secretary, Mr. Dick, it is a very illuminating document, because at that time there were no crown corporations in Ontario. It even shows in there how to set up a crown corporation. That has always been our idea.

That has been my only direct involvement, in informal conversation with Mr. Wise, and that was the only question he asked. We happened to be at a racetrack together, and he could have got that to me by writing. We have no submissions to make formally to the federal government. The rest of what I am going to tell you is just what I get from hearsay; I have had no other discussions with Mr. Wise, but I think it is a matter of record.

Last month, Mr. Wise called in various people, particularly the National Association of Canadian Racetracks. They had a meeting with him; they are pro offtrack betting.

Mr. Breithaupt The large tracks.

Hon. Mr. Drea: No, I wouldn't say that. They are basically thoroughbred—I'll come to the differential.

Mr. Breithaupt: Thoroughbred, then.

Hon. Mr. Drea: Yes, but some of them are also harness tracks as well.

I understand some time this month, I think it's next week but in any event some time this month, a number of harness tracks—I think they are the harness tracks of Ontario commonly known in the trade as the "half-mile tracks," Flamboro, Barrie, et cetera—are meeting with Mr. Wise. What Mr. Wise is doing is bringing himself up to date on the position of the various parties.

Quite frankly, there is a group in the racing industry which represents everyone except the racetrack operators, both harness and thoroughbred. They don't have a formal name for it, but it embraces the thoroughbred breeders and the HBPA, the Horseman's Benevolent and Protective Association which represents the owners of thoroughbred horses, large and small, particularly the smaller owners, and the OHHA, the Ontario Harness Horsemen's Association; and a combination of the two harness-horse breeding groups. There is one that is national and I think there is one that is provincial.

We have met twice. The first time we met they advanced a general proposition regarding improvements in the industry. The second time they met with us I suggested they be

more specific in their proposals, that they do it on the basis of no offtrack betting and the status quo or what would happen if offtrack betting came in. They have done that.

The position of the government is, quite naturally, that the decision has to be made by the federal government. As you know, the Attorneys General of the provinces at their conference—and I must admit again that all I know is what I read about it, although I did talk to the Attorney General of Ontario afterwards; I had no idea it was coming off—the Attorneys General did say they wanted an amendment to the Criminal Code which would provide for both offtrack betting and casino gambling. That is in the hands of the federal Minister of Justice at the moment. Obviously, the thrust has to come from Ottawa, there has to be enabling legislation under the Criminal Code.

Secondly, as you know the Ministry of Agriculture does regulate pari mutuel betting for horse racing purposes. Right now it gets one half of one per cent of the takeout across the country. Obviously, they would have some things to say about the matter. We just have to wait. They might propose something that would be intolerable to other provinces, such as the federal government running it completely. We just have to wait and see.

It may be a simple amendment to the Criminal Code. If you want a personal view, I really think this is what is coming. Many of the provinces aren't interested at all; they either don't have race plants or are interested in another form of activity, such as the social gaming one in 1969 or 1970. They said, "If the province wants it, when the province licenses it according to the province's terms an exemption is therefore created." In that one they dealt with the definition of where the money would go.

Mr. Breithaupt: It's not a federal offence then, at that point, and the matter is dealt with by the province.

Hon. Mr. Drea: That is quite right. If that comes along, all right. We would have to look at the situation.

If I understood correctly, you want to know the position of everybody involved in the racing industry right now.

Mr. Breithaupt: No. I realized that would would be very difficult to sort out.

Hon. Mr. Drea: No, it's not; I can tell you very quickly. The entire thoroughbred industry, the track operators—there is only one, the Ontario Jockey Club—the Horseman's Benevolent and Protective Association and the breeders all want offtrack betting.

In the harness field, there is somewhat of a split. The position of the horsemen basically boils down to that if it comes about their representatives have a mandate to negotiate the best terms possible. They are not taking a stand on whether it should come or whether it shouldn't come.

Mr. Breithaupt: They are not seeking it as such.

Hon. Mr. Drea: They are not seeking it and they are not rejecting. They regard it as inevitable, and Mr. Cliff Sheppard and Mr. Burke are to negotiate the best terms possible. Both groups of standard breeders are not enamoured of it, but if it comes there are certain conditions they want. The tracks are split. The two Ontario Jockey Club tracks, Mohawk and Greenwood, want it. Windsor wants it and Sudbury wants it.

The class three tracks, Dresden, Leamington, et cetera, are very concerned, not over any revenue split but on the grounds that they do not make their money from the board because the volume of betting isn't sufficient. I shudder to say that about Leamington and Dresden, but they make their money basically on attendance and they want some protection on the attendance. Since last January they have known they're under the wing of the minister. I have said I don't want the class three tracks to go the way of senior hockey and intermediate hockey when television was suddenly thrust into Maple Leaf Gardens. They are not enamoured of it. Basically, the thoroughbred says yes while the harness is split.

In terms of New York state, whatever would be done here would be done exactly opposite to what happens in New York state. New York state is a straight revenue producer—and this is quite often forgotten here—for the municipality. I think the state only takes a one per cent cut. Bear in mind how they started it. It was originally for New York City and then other areas wanted it. They have eight districts which are regional.

Mr. Breithaupt: Yes, regional and they share the revenue.

Hon. Mr. Drea: Every county or every municipality has an option to join in the district and to get revenue or to remain aloof. I think the way a municipality joins is that it has to be over a certain population, though I know some small towns are involved directly. In any event, they get a person on the board of the district. Primarily, it is a revenue source for municipalities. Then there is an additional amount that goes to the state. Only after that is there anything that goes to the industry.

The basis of offtrack betting here would not be primarily as a revenue gain, though naturally when you go into things you want to make money on them. There are two considerations. One is crime, which I think is always the paramount consideration. The second is the question of producing higher purses so that the owners of horses will be in a position at least to have a chance to recover their economic outlay. Only after that would there be revenue going into the consolidated revenue fund.

Do those remarks answer your questions, Mr. Breithaupt?

Mr. Breithaupt: Yes, for the moment. Perhaps there are some other questions on the same subject.

Mr. Ziemba: I have a question.

Mr. Chairman: Is it a supplementary?

Mr. Ziemba: No.

Mr. M. N. Davison: Some time in the middle of August there was a report in the Toronto Star, partially arising from a conversation with you because you were quoted extensively. I'm not sure if you recall it.

Hon. Mr. Drea: Yes, I do.

Mr. M. N. Davison: I realize the jurisdictional question as far as gambling casinos and offtrack betting are concerned is something that is in the Attorney General's bailiwick.

Hon. Mr. Drea: No.

Mr. M. N. Davison: I mean the jurisdictional question with the federal government, which we have to let the Attorney General sort out with the feds as to who will be responsible, provincial or federal. I realize that is a question that is not within your ability to decide. However, you said "Horse racing is a labour-intensive industry. We can't stand by and watch while it disappears." Being completely uncertain as to whether or not we'll have it in spite of the fact that you predicted that within a year we will probably have offtrack betting, what are your other plans to try to save the industry?

[10:45]

Hon. Mr. Drea: First of all, if you could just give me a moment, I know all of the committee members are not aware of the ramifications of the racing industry. It goes far beyond just the racetrack. On a very conservative estimate, 30,000 people derive their income from it. We are talking about the horse farms, feed and so on. It is a big industry.

Secondly, another concern of mine, which I think you would recognize from your own area, is that there is a lot of marginal farm land that probably wouldn't be in production right now because it is too close to urban areas, or really isn't class I, which is now being used by the horse industry.

Mr. M. N. Davison: Especially around Orangeville.

Hon. Mr. Drea: And Hamilton and to the north.

Mr. Chairman: Vaughan and areas like that too.

Hon. Mr. Drea: Otherwise, this wouldn't be farm land, though there is farm land protection in there.

There are two problems. We have to break down the racing industry into thoroughbred and harness. I don't think there is any doubt that without offtrack betting in the thoroughbred field, Fort Erie within a relatively brief period of time will probably cease to be. The Ontario Jockey Club and others have indicated that. It's a beautiful track. It would be a shame to lose it. It's a major revenue and job producer in the area. Second, Garden City, as you know, has been closed down for two years. It is in the same area.

Let's stay with thoroughbreds. The purse structure now is not sufficient. I am not talking about the big stakes. I'm talking about overnight purses and so forth. They simply haven't kept up with the costs of keeping a horse. I'm not talking about the buying but the keeping. Remember, a thoroughbred horse doesn't run as often as a harness horse. The expenses of a thoroughbred horse in some cases are much higher because of the different training rates. As a simplistic answer, something has to be done with the purse structure in order to bring it up to the point that with an occasional win a horse will pay for its own keep and perhaps will return a little bit on the investment.

Right now that isn't happening. Bear in mind that you can always have some spin-offs on the horse by breeding it but, unfortunately, where it's a gelding it is a straight operational cost. In the thoroughbred field, if there is no offtrack betting the only possible solution there is an expansion of what we call the industry's self-help program, which was introduced by Mr. MacNaughton in 1968. Under that program, seven cents in the betting dollar is not placed into the pool. One half of one per cent goes to the federal Department of Agriculture, nine and one half per cent goes to the track and is split on contractual basis with the horse owners for purses and the rest remains with the track. Then seven per cent goes to the province. Of the seven per cent that goes to the province, only six per cent is remitted to the

consolidated revenue fund. One per cent goes to the Ontario Racing Commission where an advisory board—and there are two of them, thoroughbred and standardbred—decides upon what allocation there is going to be into the field. A small amount goes into equine research, a larger amount goes into stakes races, such as for fillies and mares, and finally the bulk of it goes into overnight purses to raise the purse level.

One of the problems with Fort Erie, and this is what killed Garden City, is the purses there are average because Woodbine attracts a bigger betting handle and higher purses. At Greenwood, and we are talking about thoroughbred now, it is a little bit less and at Fort Erie much less. So they equalize the purses. The problem with Garden City was that the equalization to bring the Garden City harness purse up to an acceptable level was draining off winnings that an owner would have got at Greenwood or Mohawk. That was really the reason they were suffering.

You would have to go to a much more expanded self-help program. The reason I call it self-help is that the money does not come from the taxpayer. The money comes from the bettor. Even if you go to a racetrack, if you never bet any money you are not involved in increasing the purses or anything else. It is only the bettor; there is nobody else. I suppose it can be argued that otherwise it would go into the treasury.

In the United States, New York state has dropped its takeout by three per cent per thoroughbred—it hasn't done anything for harness—and other states are experimenting.

Mr. M. N. Davison: You say horse racing is a labour-intensive industry, that we can't stand by while it disappears and that the best of the two solutions is offtrack betting. If we don't get that, then what you propose is an expansion of the industry self-help program?

Hon. Mr. Drea: I'm not saying that I formally propose it, Mr. Davison. It is really the only route to go. Bear in mind, I said that with regard to thoroughbreds. With harness the problem is not the purses at the class A's particularly—Greenwood, Mohawk, Flamboro et cetera. The harness horse runs far more often; it will run as much as 40 or 45 times a year, while 20 times is a lot for a thoroughbred. At those tracks the horsemen are in not too bad shape. But at the smaller tracks there is an effort to bring up the minimum purse to $700. Remember the person who wins the race doesn't get that. They get 60 per cent or 50 per cent. It is split four ways. There is a feeling by the harness horsemen that everything would be in a very competitive and good situation if they were able to raise that up to a $700 minimum.

In the case of Rideau Raceway, for instance, that means raising it by $50 a purse; in the case of a small track perhaps it means $550 more. I don't think there is any other way to do it than putting it strictly on the purse.

Mr. M. N. Davison: You are not sure an expansion of the self-help program would save—

Hon. Mr. Drea: No, I am not.

Mr. M. N. Davison: You seem reasonably confident that offtrack betting would have a much better chance of—

Hon. Mr. Drea: To the extent there would be more revenue to put in. There are three alternatives, Mr. Davison.

Mr. M. N. Davison: What is the third one?

Hon. Mr. Drea: You have three alternatives. One, you can cut the tax and take the position they are taking in the United States that the bettor with an 86-cent dollar getting back more money when he wins will churn more money back into the mutuel, so you will get a higher dollar volume at the track at the end of the day to be split into purses. That is academic. Nobody has ever proved that it works or it doesn't. It sometimes works on a short-term but not on a long-term. Nobody knows for sure.

Secondly, you've got this kind of self-help program administered by the industry where it does not go back to the bettor. Instead it goes directly guaranteed into purses, whether it is stakes or what have you, breeding awards, et cetera. That has worked. I give you an example of the yearling sales this week in standardbreds where they are up very substantially. Why are they up? Granted you can always get a full brother to Alberton who will get $126,000.

The reason they are up is you have a number of Ontario sire stakes which are limited to those yearlings next year that go around big tracks and small on a whole circuit. If you have a quality animal—and bear in mind only about one third of the animals that are purchased at a yearling sale ever get to a racetrack—you will probably be in very good shape for getting a piece of that Ontario stakes money, et cetera. So I think the direct way, at least the way it has been operated here, particularly in the harness field, over the last four or five years, has worked out.

Your third alternative is direct subsidization, and I reject that one.

Mr. M. N. Davison: I just have two other areas of questions on horse racing.

Mr. Chairman: Before you go into that, I'm going to have to excuse myself because I have a meeting at 11:00.

Hon. Mr. Drea: Are you going to make a bet?

Mr. Chairman: I've got to make a bet.

Hon. Mr. Drea: They don't open until 1.00.

Mr. Chairman: That shows my knowledge, Mr. Drea, but I have learned a lot this morning. I am going to ask Mr. Ziemba to take the chair.

Before that, I am afraid I am going to have to make a ruling based on a statement made by Mr. Swart earlier. He used the word "dishonest" and applied it to the minister. I would simply have to refer the member to standing orders 19(b), 9 and 10, which shows it is unparliamentary to impugn a false or unavowed motive to another member or charge another member with uttering a deliberate falsehood.

I also refer to the House of Commons decision of February 6, 1959 in which the word "dishonest" was considered unparliamentary. I realize that often in these matters when we feel very strongly about it, either the minister or the person doing the questioning may sometimes be a little indiscreet, but I am going to order Mr. Swart to withdraw the word "dishonest."

Mr. Swart: I'll withdraw, Mr. Chairman, and replace it with "the information which he provided me with was false."

Mr. Chairman: I am not sure that improves the situation. I would prefer that you say the minister has, in your opinion, provided information which you believe is not accurate.

Mr. Swart: I think you are correct in asking me to withdraw "dishonest"—that impugned motives. "The information that was provided me was false" does not impugn motives. But the information was false and I will not withdraw it.

Mr. Chairman: I'm sorry, Mr. Swart. All the members are considered honourable members. I refer you to the decisions of the House of Commons in which the word "false" was considered unparliamentary in the debates of May 8, 1961, April 13, 1964, April 14, 1964, May 10, 1966, March 28, 1969. In case you wish to try the word "falsehoods", I refer you to House of Commons decision by the Speaker of November 14, 1977, in which that was also considered unparliamentary. I'm going to ask that you simply save time and please withdraw that word.

Mr. Breithaupt: Mr. Chairman, it would appear certainly that in Mr. Swart's opinion the information given was incorrect. I would think if he would leave it at that, it is a matter which can be considered by those who will view this exchange in years to come and I would hope that would be a satisfactory result. I would encourage that if it could be accepted by Mr. Swart.

Mr. Chairman: If your purpose is to draw attention to the facts in the matter, then I am sure these words are not necessary, Mr. Swart. Would you please withdraw the words "false" and "dishonest"?

Mr. Swart: I fail to see how that is impugning motive, but I will replace it with "grossly incorrect". The information which you provided me was grossly incorrect.

Mr. Chairman: I am happy, Mr. Swart that you have shown yourself to be so reasonable and we can carry on with the topic of—

Mr. M. N. Davison: Mr. Chairman, a point of order.

Hon. Mr. Drea: Just a second—if I could just say something.

Mr. M. N. Davison: A point of order—

Hon. Mr. Drea: You can have your point of order. You will like what I'm going to say.

Interjections.

Mr. M. N. Davison: While we are on the topic of unparliamentary language, on the first day Mr. Swart raised the question of prices, on at least two occasions the minister used the phrase "not true; it's not true." Would you make a ruling on that?

Mr. Chairman: I'm sorry, I did not catch those. I do not have the Hansard before me. I am quite prepared to look at Hansard—

Mr. M. N. Davison: Would you look at Hansard?

Mr. Chairman: —and to bring back a decision.

Mr. M. N. Davison: Thank you.

Hon. Mr. Drea: If I could just say something, Mr. Chairman. At no time, despite the vehemence of the language, did I think Mr. Swart was impugning motives to me.

Mr. Swart: My statement was correct that—

Hon. Mr. Drea: Oh, no, no.

Mr. Swart: Because it was.

Mr. Chairman: Mr. Ziemba if you will take the chair.

Hon. Mr. Drea: Mr. Davison, just while Mr. Ziemba is taking the chair, you raised the point that I said it appeared inevitable. That is just my feeling on the basis of what has

been going on in Ottawa. I am not a participant. We are not advocating one way or the other. Our position is on the record. What I was trying to point out at that time is that from the bottom of my heart, from an administrative point of view, I wish they would make a decision. Otherwise, I don't know where to go and neither does the taxpayer in Ontario or the member. You can't go on saying we don't know where to go.

Mr. M. N. Davison: It's a question of believing that it will happen.

Hon. Mr. Drea: I think it is inevitable. Whether it comes next year or 20 years from now, it is inevitable.

[11:00]

Mr. M. N. Davison. The government in Ottawa manages to suspend my belief on a daily basis.

Hon. Mr. Drea: Well the last one did it for seven years.

Mr. M. N. Davison: Yes, that's true. I have another two questions on horse racing, Mr. Minister. I'm really curious as to your impression or knowledge about the people who are involved; horsemen, I guess, is the term used. I have the impression, and please correct me if I'm wrong, that most horsemen aren't involved in the business as a money-making, profit-making venture, and it is for many a hobby or an interest, or a secondary source of livelihood. Would you agree with that?

Hon. Mr. Drea: No.

Mr. M. N. Davison: Would you agree with Mr. Larry Regan, president of the Horseman's Benevolent and Protective Association, when he said in August that only 15 per cent of horsemen in Ontario made money last year?

Hon. Mr. Drea: Yes, I would. I know Mr. Regan, he presented me with these figures.

Mr. M. N. Davison: How do these people keep above water? How can they afford all the horses?

Hon. Mr. Drea: Well, I know the context in which he was talking. First of all, in the thoroughbred field particularly, it used to be it was an offset, another interest.

Mr. M. N. Davison: Like if you're E. P. Taylor or somebody.

Hon Mr. Drea: Yes—well no; E. P. Taylor has been in it, and once you take the breeding, et cetera, et cetera into account, Mr. Taylor makes money.

Mr. M. N. Davison: He's among the 15 per cent who made money, I guess.

Hon. Mr. Drea: Perhaps not on the racing, but Mr. Taylor, believe me, with his world-wide operations and so forth, has invested an awful lot of money and he makes money. Mr. Stafford has invested an awful lot of money and he makes money. But by and large, today, that is a diminishing factor. By and large, today, a person cannot stand sustained losses of any dimension over a period of time; he gets out.

Now you're asking about Mr. Regan. Bear in mind that was only thoroughbred, harness is another matter.

Mr. M. N. Davison: We're talking about thoroughbred racing.

Hon. Mr. Drea: Okay, what Mr. Regan was talking about was directly on the track, if that was all you were doing, racing a horse on the track. Now where you get some partial offsets in this is if you are operating afterwards with that horse, either male or female, if it's any good then in the future you may make money far beyond what you ever made on the track by virtue of the breeding, over a long period of time. What he's talking about is you and I today buying a horse, a thoroughbred horse, and racing it over this year.

Mr. M. N. Davison: What would we call it?

Hon. Mr. Drea: Misadventure; how's that? It would be a misadventure; I don't know if you've got any money, but I haven't.

If you and I were to get involved today, let's say we bought a horse, a quality animal we really wanted to buy, for which we had some expectations for a period of time. It would be in the neighbourhood of $30,000 to $35,000, on the average. That's a tremendous overhead to carry. Then you get into the fact that with a thoroughbred you don't train him on your farm during the racing season. He is trained at the track. You have to pay your trainer, you have to pay the exercise boy and the jockey. You have to pay for the feed. Not the least expense is the vet; believe me, ladies and gentlemen, you'd be amazed at the diseases. That is a very heavy burden. When you're going for purses of about $4,000 or so, which will give you around $1,890 as a winner, based upon the animal, even if he is superb, he or she or it will probably win—even if it's an absolutely spectacular thing—reasonably, maybe six or seven times in a year, but on the outside 16; it's playing for that. That you have to board it over the wintertime, et cetera, et cetera.

Now then, how do some people make money? There's no question if you have a good animal you are allowed to bet on it. If you know it's really good and you have confidence, you unload through the pari-

mutuel windows. If it wins, you make some additional money that way. You make it from breeding. You can arrange to sell it. You can put a horse in very top-notch condition early on in the year and if somebody is willing to take the chance that particular animal will stay the rest of the year, you sell it.

But what Mr. Regan is talking about, and I think he is entirely correct, is about 15 per cent make money. The best answer I've ever had about horse racing quite frankly is Mr. Preston Gilbride, who says over a lifetime he hasn't lost money and then he qualifies it to "much money." But, unless you're into breeding, unless you're into stabling, unless you're into a whole other number of things, I do not advise it as a business proposition.

Mr. M. N. Davison: It looks to me as though there must be an awful large number of people in that business—

Hon. Mr. Drea: Fewer and fewer every year.

Mr. M. N. Davison: —who could afford to lose money.

Hon. Mr. Drea: Yes, but here is your problem. If they lose money then at the yearling sale they do not buy new animals. Or if they get a very good animal, they take the animal to New York City, to Belmont, or Aqueduct which pays higher purses, and therefore has the crowd, and I think you have to remember this. There is a concept that the people who go to races will go there if you have eight geese running; that isn't true. They want a quality product. If you don't give them a quality product attendance goes down.

You can see this at almost any track when they put on a featured event, the crowd comes up; the more people who are there, the more handle, the more money goes into purses. If you run a very low standard, there is very, very little return.

The small class 3 tracks with the exception of Leamington and Dresden—I noticed Mr. Ruston when I said that they really weren't small tracks any more, Dresden is a little Saratoga for a number of reasons—at the very small track where you have $350, you get a lower quality of animal. The guy is running it for a hobby, he owns a farm, et cetera; he likes to go out and run it around. Okay, your betting handle is low, they can't increase the purses; they can't bring in the kind of horse that will attract the patronage, et cetera. It really reverts down to that crowd.

Where you get small fields, and you've had problems here the bettors get very disenchanted at thoroughbred racing and you notice the daily handle goes down. If the daily handle goes down, the ability of the track to provide more purses goes down.

Mr. M. N. Davison: I have only one final question then. Services rose in estimates from the 1978-79 year to the 1979-80 year from $71,000 to $262,000, which was an increase of $191,000. I assume that comes from transfer of responsibilities.

Hon. Mr. Drea: Yes. One of the things that has happened is, we have had to assume. We've done a de facto now but on November 1, we will be officially doing it.

The federal government has what's known in the trade as a judges pool. The federal government used to tax at not one half of one per cent but six tenths of one per cent. That one tenth they remitted to the Canadian Trotting Association, which paid for judges. The old split used to be that in the thoroughbred field, we provided a judge, the track provided a judge, and a judge came out of the pool. At standardbred, we provided a judge, and the Canadian Trotting Association or whatever the trade group was provided two.

The federal government decided to get out of that and suggested two years ago that the provinces set up a pool. Saskatchewan and Alberta did not want an interprovincial pool. Alberta for one reason, but Saskatchewan and some other ones basically on the grounds they didn't have that much racing. They didn't see why they should subsidize 365-days-a-year racing in Ontario and Quebec. That fell apart. The Canadian Trotting Association is out of the business; it doesn't have the funds to do it any more. We are assuming the contractual relationships for those judges. Judging is very important obviously.

Mr. M. N. Davison: This dual portion is the $191,000 increase the province is responsible for?

The total increase is $191,000. How big a chunk is that?

Hon. Mr. Drea: I must apologize. The reason that there is no one here from the commission who could answer that is they have a full day of disciplinary hearings today unfortunately, and that's why Mr. McDonnell—

Mr. M. N. Davison: It obviously didn't occur to Mr. Breithaupt when he suggested the schedule.

Hon. Mr. Drea: I'll tell you, Mr. Davison, you and I were both wrong. It is not the judges pool. It is the OPP which now does the police work for the commission on a charge-back basis.

That's the $86,000. The realignment of debit other expenses are for—

Mr. M. N. Davison: Just comes out of the transportation and communication.

Hon. Mr. Drea: Yes.

Mr. M. N. Davison: What's the policy division project at $50,000?

Hon. Mr. Drea: That is part of the promotion work in the self-help program for harness racing.

Mr. M. N. Davison: So you've already expanded the self-help program?

Hon. Mr. Drea: No, it's within it. You see, they get the bulk of their money—

Mr. M. N. Davison: I see. That was the original cost under services. That's an ongoing expense, it's not a project for this year.

Hon. Mr. Drea: No. That's right.

Mr. M. N. Davison: My question is answered.

Hon. Mr. Drea: Your other difficulty in judging the value of the commission—and I caution members in the future—about their budgets constantly going up, is their budget has to go up because they get one per cent of the racetrack revenue, of that seven per cent.

Last year, it was one per cent of $645 million. This year the projection is it will work out of $690 million, hopefully $700 million. That goes up automatically. It is not even a discretionary amount because the six points are sent directly to the Treasurer.

One last thing on the judges pool. You are going to ask next year why the racetracks aren't continuing to pay their one third. They are paying; we put it in their licence fee.

Mr. M. N. Davison: Next year, I'll be sitting there and you can have the opportunity to ask me that question.

Hon. Mr. Drea: Mr. Davison, I will give you 500 to one on that and I'd be taking your money.

The reason is the racetracks will be licensed and will pay even more than they have been paying to the Canadian Trotting Association, but that money will go direct to the consolidated revenue fund. I have to find the additional things out of their budget.

Mr. Breithaupt: Just a couple of final questions I would have with respect to the matter of getting—

Mr. Acting Chairman: Is this a supplementary, Mr. Breithaupt—

Mr. Breithaupt: In the same general vein.

Mr. Acting Chairman: —because Mr. Johnson was on the speakers' list?

Mr. Swart: Mr. Chairman, is my name on the list?

Mr. Acting Chairman: Yes, you're after Mr. Johnson.

Mr. J. Johnson: Mr. Chairman, I was transferred from the resources committee to the justice committee and quite frankly, for the first few minutes, I wondered if I really was at the justice committee, but I think that's straightened out and I am pleased.

Hon. Mr. Drea: We can get to variations.

Mr. J. Johnson: Mr. Minister, there's just one point of clarification. In your annual report, you stated the racetrack tax as $45 million.

Hon. Mr. Drea: Yes.

Mr. J. Johnson: Is that a profit?

Hon. Mr. Drea: No, that's the tax. We have no profit. When you bet $2, 14 cents is tax. Before that thing ever goes onto the board, seven cents on the dollar is immediately remitted to the Treasurer of Ontario. You're playing with an 83-cent dollar. Of each dollar you bet, only 83 cents goes into the pool for wagering and for payout.

Mr. J. Johnson: It states this brought $45 million in racetrack tax into the provincial coffers.

Hon. Mr. Drea: Yes, that's true. Then you deduct one seventh of that, which goes directly by statute to the commission for the self-help program.

Mr. J. Johnson: Is that the $6.66 million we have in estimates?

Hon. Mr. Drea: Yes, that's right. That is split by virtue of the two divisions, thoroughbred and harness, in proportion to the amount wagered. Thoroughbred betting is $234 million and the remainder is harness, so it's split in proportion that way. Each group aligns it differently. The harness group decides what they want to do with theirs, and the thoroughbred group decides what they want to do with theirs.

No racetrack operator is involved in that advisory committee. It is the horsemen, the breeders, the veterinarians, et cetera, who decide.

Mr. J. Johnson: It's based on the one seventh. That was my question, thanks.

Mr. Acting Chairman: Does that complete your questioning, Mr. Johnson? Mr. Breithaupt.

Mr. Breithaupt: Mr. Chairman, I just wanted to ask a couple of further questions on the theme of betting generally.

I recognize from the background the minister has provided and from the other knowledge we have that the matters of offtrack betting and of casinos as such are two particular themes the Attorneys General have to sort out.

Hon. Mr. Drea: Do you want the government position on casinos?

Mr. Breithaupt: Well, that's what I'd like to know.

Hon. Mr. Drea: No. For exactly the same basis as we're saying offtrack betting must be a crown corporation. The stated position of the government is no entrepreneurial gambling. In the lotteries field, we run many casinos and bingo, but it's a buck for charity, not for profit.

[11:15]

Horse racing is a different thing, because pari mutuel responsibility is Ottawa's and has traditionally been there. But you cannot operate a gambling casino non profit; you cannot. Nobody has yet devised a way to do it, therefore it is entrepreneurial and the stated position of the government is no entrepreneurial gaming in Ontario.

That is why we would have rejected the concept of the racetrack operating its own offtrack betting parlour exclusively. It has to be a crown corporation with the profit, or the revenue, however you want to call it, going into the consolidated revenue fund and so forth.

Mr. Breithaupt: Or for some at least acceptable general purposes.

Hon. Mr. Drea: Hospitals, yes.

Mr. Breithaupt: I am thinking of our own operation at Oktoberfest this year.

Hon. Mr. Drea: Did you like that? I dealt cards there. Do you know what they are going to do with that money, the Lion's Club?

Mr. Breithaupt: I know, but I am sure the other members would be very interested.

Hon. Mr. Drea: I think it's very interesting. That was the first one. I think perhaps when Mr. Fisher is here you might like to ask him. We did one in London at the Western Fair.

Mr. Breithaupt: And at the Central Ontario Exhibition as well.

Hon. Mr. Drea: Yes, but those are restricted, they must go to the fair. You can't have a private operator, it must go to the fair, and this I think will improve fairgrounds generally. It gives them a little bit of capital that otherwise they might have a tough time getting.

In this case it went to the Lion's Club—and hopefully they did as well on all nights as they did when I was there. I'm not talking about me, I'm not much at that. They tell me that next year when your arts centre opens up there they want to sponsor the German opera "Die Fledermaus"—and an opera like that is a very expensive proposition—and they will turn those proceeds over. I think that is a very good indication of what you can do with social gaming with a very responsible organization, all volunteers, which is the Lion's Club there.

There was a $1 limit so nobody lost their mortgage or nobody got a fortune. No real money, so no skimming. They found a use for their old coins which are of no value. Then when a thing like the arts centre, or whatever the proper name of it is, opens up, that service club can provide the funds for a very major cultural thing that otherwise would have had to come directly from the taxpayer or not at all.

Mr. Breithaupt: It also encourages the maturity of the whole Oktoberfest operation that, of course, to me particularly is a personal delight. The development of that kind of theme from the volunteer base is surely a most healthy way to go in this whole approach. I appreciate the comments of the minister as he divides the two themes.

Hon. Mr. Drea: The problem is, if we allowed a gambling casino to open up they couldn't operate that. Who would want to go with the local Lions and play for $1, with a $1 limit, when they could go down and shoot the works on a roulette wheel, a dice wheel, et cetera?

Even if you liked the idea, and I don't know of anybody who does, but even if you want to wave aside all the concerns about big gambling, the first impact on that would be on that little service club or social organization that can do something in a community. Instead it goes to a bunch of guys in tuxedos with a bulge under the arm and a suitcase. That's the very fundamental difference.

Mr. Breithaupt: Just a final point on the matter of betting and of course the minister's view as to what might happen in the 1980s with respect to a variety of increasing betting operations in the province, I was wondering if you just might take a moment to review with us the proposal made, at least as reported by the Ontario Greyhound Association, with respect to the possibility of revising operations at the Garden City Raceway and getting Ontario into the greyhound trade.

Hon. Mr. Drea: Dog racing, Mr. Breithaupt? As long as this government is in office, as long as this minister is around, there will be no dog racing in this province, period. Why all of a sudden these have come up—and I have never received that one, by the way. I don't know why they say they sent it to me. I haven't received it. I have received some other ones on the question of running them at various places. There will be no dog racing for pari mutuel purposes in this province, period. The reason I say for pari mutuel purposes is there is some amateur greyhound racing or shows now, but there is no betting, period. We regard it as something that is extremely difficult to control. I think there are some very serious complaints being investigated by the Toronto Humane Society—maybe it is the Ontario Humane Society—about live cats being used to train them to chase the rabbit, which is contrary to the Criminal Code. There are investigations under way. There will be none of that.

Bear in mind it's not because they are small. Quarter-horse betting is allowed in this province. We don't even supervise it. We give them the right to wager. We have no trouble with it. It's a relatively small thing. I think it's done up in Markham, isn't it?

Mr. Stong: Yes, it is.

Hon. Mr. Drea: There is no problem. That's a little different proposition from the boys coming in with the dogs. They have problems, I don't care where it is, whether it's in Great Britain, Florida, or the New England states; no thank you.

Mr. Breithaupt: That completes the questions I had. I appreciate the comments the minister has made, particularly in that last area.

Mr. Chairman: Thank you, Mr. Breithaupt.

Mr. Swart: Yes, Mr. Chairman; I want to voice some reservations about offtrack betting. Horse racing isn't my vice or sport. I'm more interested in stock-car racing.

Hon. Mr. Drea: I thought I saw a picture of you at a race.

Mr. M. N. Davison: There's no betting in stock-car racing.

Mr. Swart: There's no betting in stock-car racing.

Mr. M. N. Davison: No pari mutuel betting.

Mr. Swart: There's no betting at the races I've been at. In any event I don't think that has any bearing on my views. It may well be right that offtrack betting is inevitable, in most democratic countries it's allowed; but I think that the more gambling that takes place in our society, the more people that are hurt.

I think it's inevitable that if we get into offtrack betting there will be promotion of it, that's inevitable. People who didn't bet before will start betting. Some of them may get the bug. It may do real damage to them. I think it's also inevitable that if it's put in you can't go back. It seems inevitable that you can't really take it away; there's such a hue and cry that once you get into it it is there to stay.

I have seen some studies, Mr. Minister, not just recently, that were done in England with regard to the effect on society. It was far from desirable overall. It showed that those in the lower income brackets were the ones that did the most betting off track at betting establishments, the ones who could least afford it. In fact the money they spent there came out of their grocery expenditures. Therefore there is another side to it, a pretty serious side.

I guess what I want to ask the minister: Are these all the studies that have been done on it? Do you have those? Are you doing a rather intensive investigation into the effect on society? It doesn't increase the standard of living really. I know standard of living is a loose term. If it gives happiness to people you may say that increases the standard of living. I realize it's a very loose term.

Hon. Mr. Drea: I understand your concern.

Mr. Swart: I just wonder what kind of study he's going to do and whether he's going to do this rather exhaustive study and release the results. Will we have the kind of public debate on this that should take place in the House, or perhaps even more so outside the House? I'd like to know his plan.

This is a very diverse question, and you may have answered this before, but has the Ontario government put some money into the breeding?

Hon. Mr. Drea: No, the self-help does all of the breeding.

Mr. Swart: Has the federal government put any money into it? Is there any public money that goes into horse breeding at this time? There was a while ago.

Hon. Mr. Drea: No that's been changed. There are some breeders' awards, but they come out of that one per cent the industry decides what to do with. So it's public money in that it never got to the treasury but it's a tax applied only on the bettor; so it's not your money, let's put it that way.

Mr. Swart, if I could address it first of all, I wouldn't be terribly interested in a survey from England because they have an entirely different betting system. They have no pari mutuel betting whatsoever. They even have bookmakers at the racetrack. It's an entirely different system.

Mr. M. N. Davison: Not to mention the Conservative government.

Hon. Mr. Drea: Most of the things he talks about came under a Labour government. They were great dog fanciers. It's a different situation in England.

You could take a survey from France. France has very good offtrack betting and you could reverse almost everything that's true in England. A great deal of the French offtrack betting money goes to training jockeys, to training people for employment in the industry, to stabilizing employment and so forth.

I understand your concerns about this. I have concerns too. If you went out today and asked the public if they want offtrack betting on the grounds that the offtrack betting is already there—this isn't a new feature, it's there with the bookmaker and has been since time immemorial—if you went out and said, "Do you want offtrack betting or gaming legalized?" I would be amazed if it didn't come in at under 80 per cent yes.

I think you could go out and say do you want the NFL football betting made legal on Sunday, on the grounds it's being done in tremendous amounts and why shouldn't the government control it, why let the Mafia have it? The public would come back in and say yes. I think you would accept that as well; that's not your concern.

New York City has done it. I think New York City has 156 or 136 betting shops. They are not just in Manhattan, but in Queens, et cetera. Number one is Grand Central Station commuters from Connecticut. Number two is Pennsylvania Station commuters.

Their lowest one is in Harlem. They told me a couple of reasons why they keep it, but I don't want to get into it. They lose money each and every day in Harlem because, according to their study—and they did a very imposing demographic one which I can hopefully get from you, I read through it and was talking to them—according to their study the median age of their bettor is 25 to 35 years old, with a college degree and a salary up in the $19,000 to $30,000 range. The per capita today at Woodbine is around $125 a day. That means you divide the number of people who went into the total take.

Belmont or Aqueduct, under the New York Racing Association—and I could be off a few dollars on this—have around $135 to $140 a day per capita. It's in that range. The offtrack betting per capita is $10. In other words, they did a thing a while ago where there were around 20,000 people at the racetrack in New York City that day. It was on a Thursday. I can't find the study now but I'll slip it to you in the House. There were some 20,000 at the racetrack and they bet $2 million and something. They bet almost the same amount of money in the offtrack betting shops in New York City, because it's restricted by market area to the city, give or take a little bit in western New York. It took 150,000 people to bet the same amount offtrack.

I would be very concerned, Mr. Swart, if the per capita of $125 at Woodbine; $105 at Greenwood right on down was going to be perpetuated by people going into the betting shops. Apparently, it is not. The man who comes in is betting $2 across the board, not $20, $40, $20 or this type of thing.

The offtrack betting in New York City has a very good slogan and they try to promote on the basis of, "Bet with your head, not over it." They recognize the problem. By and large, betting on horses is not done by poor persons—once again, it's a word, "poor", whatever it means.

[11:30]

Mr. M. N. Davison: The sport of kings.

Hon. Mr. Drea: No, because you have to read the charts, et cetera. The person of modest means really prefers numbers, tickets, all kinds of things.

Mr. M. N. Davison: Hamilton Centre lotteries.

Hon. Mr. Drea: He has never been tuned in to this. There is no question that wherever you have gambling it's the same as alcohol. You have to recognize there will be a small percentage of people who will not be able to handle it and you have to build for that. By the same token, just as with alcohol and just as with the amount of gambling we have today—which is very widespread, whether you want to call it government lotteries or non-government lotteries—there's a fallout there.

I read with utter horror the man who plastered his wall with a certain kind of ticket. I think we have to recognize that he is a problem and we have to deal with that problem.

I'll share with you the New York state one. To the best of my knowledge there is no demographic or any other type of survey that would show what happens, because you've been dealing entirely in an illegal area. A

man will tell you, "Yes, I bet $200 a day with the bookmaker." How do you know whether he's telling you the truth or not?

The other important thing too, in balancing this out, is the fact that when you bet with a bookmaker you can bet on credit, as you know. Under any type of system, ontrack or offtrack, it's cash up front. You have no credit, you have no credit whatsoever. Today at a racetrack you cannot cash a cheque. You come with the cash in your pocket. You can't use your Chargex card for betting purposes. It's just straight cash.

With the bookmaker, if you want to do some "if come" and reverses, he'll be very glad to keep your credit account. About four or five times a year you read fellows are found in the trunk of a car, et cetera; everybody seems to know exactly what took place.

I'll share that New York one with you. I don't think it'll allay your concerns, because it doesn't allay my concerns. Do you get in a position where one per cent of the population, because they may have difficulties with it, precludes the 99 per cent? You can argue that all over the place.

Mr. Swart: I'm not sure whether anybody else wants to speak, but could I ask a couple more questions here on this issue?

Hon. Mr. Drea: Have I helped you with that?

Mr. Swart: Yes.

Hon. Mr. Drea: If you want to give me the English one I'll be very glad to read it, but I have to look at it on the basis—

Mr. Swart: No, I don't have it. It was a newspaper report about a study that had been done on it. I'm just wondering if you are planning on endeavouring to inquire whether there has been one done in France. I don't know, but it seems to me it's important because the English one may be different types of betting.

Hon. Mr. Drea: Australia, I think, would be a very good comparison, because they almost duplicate Ontario life. They have a number of lotteries in conjunction with it. They have a whole thing. We'll get those for you.

Mr. Swart: The effect, in England, at least in the study I saw, was much more than one per cent. It affected 10 per cent of the population and those were the lower income groups. I think we have to take a very in-depth look into the effect of these types of things.

Hon. Mr. Drea: If you will send me the clipping I will get it and I will share it with you. I will try to get the Australian experience.

Mr. Swart: Can I just ask further, and I'll conclude on this: Do you expect to be making some such report, whether it's a summary of these reports, or do further investigation? That is what I would like to see, a full report on the effects on the societies where they've started offtrack betting.

Hon. Mr. Drea: I'll do the best I can. I don't know if Australia has one. Australia's had offtrack betting for years. I'm not in a position, obviously, to commission a study in Australia.

Mr. Swart: That's old too. It's 15 or 20 years old.

Hon. Mr. Drea: Australia may or may not have one. I'll do my best to get it. People want me to go to Australia this fall. I'm not going, but I know somebody who is.

Mr. M. N. Davison: You're not?

Hon. Mr. Drea: No I am not, I can't afford it.

Mr. M. N. Davison: Who's going? Name names.

Hon. Mr. Drea: People who are interested. Nobody in the government.

Mrs. Campbell: You've got us wondering now.

Hon. Mr. Drea: Mr. Drea is too poor to try the Australian route. I will give you a list of what I will try. Maybe you can try as well. I will try for Australia. I think Australia's very comparable to the situation here because they run government lotteries, non-government lotteries, pari mutuel betting all out of the one—and New Zealand perhaps too.

Mr. Breithaupt: Most of the states too, I think.

Hon. Mr. Drea: There is no offtrack betting in the states except for New York state.

Mr. Breithaupt: No, I meant in the states of Australia.

Hon. Mr. Drea: The problem with the United States is that you're going to have to rely upon New York state and New York state alone because there is no other offtrack betting.

Mr. Swart: That's fairly recent, isn't it?

Mr. Breithaupt: Since 1970.

Hon. Mr. Drea: New York City has had it the longest. Others have come in in phases, but I will get the New York City information for you. I will try to get the information on France, and if you will give me that clipping I will get England.

They tell me they have forms of it in Germany, but it's so minor and so new that I don't think it would shed any light. They even have bookmakers in Russia. They have

harness horses in Russia with pari mutuel waging. That boggles my mind. I don't think Mexico would be germane. Mexico runs Caliente racetrack in Agua Caliente, or Tijuana; they run races on the outside but there is a room twice the size of this Legislature where you can bet.

Mr. Swart: They're not comparable, in a sense, because of the standard of living dividing things.

Hon. Mr. Drea: No, there are no Mexicans in that betting room; it's all from California, but I don't think that would—

Mr. Swart: You don't have many United States poor people going across the border to bet, I wouldn't think.

Hon. Mr. Drea: Poor people? No, you don't. You don't here, either.

Mr. Swart: We may under this, that's why I want the studies.

Mrs. Campbell: My colleague raised the question of dog racing. I had a letter, just recently, which caught me completely by surprise. It was a protest against dog fighting taking place in the province of Ontario. I would like to know whether the minister has any knowledge of such an activity; and if not if we could try to get further particulars. I'm trying, at the moment, myself. I never heard of it here.

Hon. Mr. Drea: Oh, yes.

Mrs. Campbell: I didn't know. What are you doing about it?

Hon. Mr. Drea: First of all, it's really contrary to the Criminal Code, which doesn't come under me.

Mrs. Campbell: Yes, I know it is.

Hon. Mr. Drea: Since you've asked me, I'm very interested in it, because I have some relationships with the Ontario Humane Society.

Mrs. Campbell: And I.

Hon. Mr. Drea: It apparently is a problem that is—I want to put it in perspective—not on every street corner, but there is a significant increase in it. It is very difficult for the humane society to control. It's like the old cock fighting, et cetera. I am also interested in this one about the reports of greyhounds being trained on live cats, where they supposedly have been mutilating the cats.

As you know, they don't chase a rabbit, they chase a mechanical rabbit. It's a thing that runs around the rail and it is scented like a rabbit with a little piece of trailing cloth. They come charging out of the chute, et cetera. There is some concern, and I have been talking to them about that, so I'll be very glad to find out what I can about the other.

Mrs. Campbell: I would appreciate it, because as I say, I had not heard of it in any organized sense at all. If it is organized, I want to know.

Hon. Mr. Drea: I think this is their concern: from time to time it does occur, but then it quickly goes away. It's more or less two people who have these. They get side bets. Now, apparently, they're starting to attract some crowds. These are not conducted in cities. They're obviously way out some place. I'd be very glad to get that for you.

Mr. Acting Chairman: One quick supplementary, Mr. Johnson.

Mr. J. Johnson: It really isn't a supplementary. It was an original question of Mr. Swart's regarding offtrack betting in Australia. Alf and Sam and I have agreed to go as a committee, if you would like to send us.

Hon. Mr. Drea: If you fellows want to go, by all means I think you should apply to the Board of Internal Economy.

Mr. Acting Chairman: Let the record show that Mr. Stong and Mr. Johnson request permission to travel to Australia to investigate offtrack betting.

Mr. Cureatz: Let the record show I wasn't consulted.

Mr. Stong: Only if we're going to study kangaroo racing.

Mr. J. Johnson: The question is really more of an expression of concern regarding lotteries.

Mr. Acting Chairman: Let's vote on item 1 first.

Item 1 agreed to.

On item 2, theatres:

Mr. Breithaupt: There are a number of questions which one might ask on this theme. I'm sure members have a variety of them, particularly as they deal with the—

Hon. Mr. Drea: Mr. Breithaupt, could the committee give me indulgence for about one minute? We have a very historic event today. I think that members of all parties will want to participate in it, just before we start so it is not forgotten.

Mr. Breithaupt: You have my indulgence, Mr. Minister.

Hon. Mr. Drea: We have with us today, for the last time as a civil servant, Mr. George Belcher. Mr. Belcher will be retiring next month. He has completed nearly 50 years of service as a civil servant.

Mr. Belcher is not of that advanced an age; he chose to enter the public service at a time when literally you could come in in short pants. I remember having to wear short pants myself. It's not that far back. He has been with the theatres branch since November 18, 1929, which means that as a public servant in that branch Mr. Belcher has gone all the way from silent films to what we have today.

Mr. Breithaupt: Whatever that may be.

Hon. Mr. Drea: Mr. Belcher has been an excellent administrator. He is now the assistant director of the branch. I think it is very noteworthy. Because of changing times and employment patterns we probably will never again see a half century public servant. I want to say that over the years Mr. Belcher has developed an expertise where he is now on call to the crown as an expert witness in many cases. Despite all the things in the movie business—and bear in mind it isn't just the censorship, you're dealing with distributors, with products, with an awful lot of things over the years. It's a very highly competitive business.

Many of the problems do land in the theatres branch. Remember we're also in charge of theatre safety, theatre building, projectionists, all this type of thing. I can tell you one thing. In my time—and I guess it's four years, off and on—you could always call up at 7:45 in the morning, and while a number of the other people, the support staff, the secretaries and so on, weren't there, you didn't have to ring more than three times and Mr. George Belcher was there, even if it was a terrible day.

I know the committee may want to say a couple of words to him. I think a man who has achieved 50 years of public service, through a couple of depressions, through a war, through all the other things that have come and gone, who has for 50 years, 365 days of the year—I happen to like public servants and I think Mr. Belcher is very typical of the public servant in our society. I thought perhaps the committee might like to say a couple of words to him, because he is rather definite—I persuaded him to stay for a little while but Mr. Belcher is rather definite, he wants in the future to pay to see the movie of his choice, not have to view them day after day. Mr. Belcher now wants the right to movie selectivity.

Mr. Breithaupt: I appreciate very much the comments the minister has made. Certainly for one to contemplate looking ahead for 50 years in the public service or in almost any other aspect of life is virtually an impossibility. The involvement he has had in seeing the film industry develop, I'm sure not always in ways he might have preferred, but in ways that have been a revolution in entertainment, or what passes for entertainment in our society, is something that is indeed remarkable.

Certainly from the look of Mr. Belcher he must have been carried in on a pillow in his first days at Queen's Park, because he appears not only to be young in spirit but young in countenance. One wishes him well as he completes this most amazing milestone of public service within the province.

Mr. M. N. Davison: I would also like to make a few comments. I would like to learn the secret of staying anywhere near here for 50 years.

[11:45]

Hon. Mr. Drea: The office has been in Leaside for a number of years, and I think that helped.

Mr. M. N. Davison: What do you say to someone who has spent all that time in that particular endeavour? I wish I had seen your work, but I haven't. Maybe I should zip up to the offices and view some of your work one of these days. Congratulations on a remarkable and fine record.

Mr. Acting Chairman: I know I speak for all members of the committee in wishing Mr. Belcher well in the years to come. I hope you go to the movies and enjoy yourself now without feeling any responsibility for what you see.

Mr. Breithaupt: There are a number of questions to be asked with respect to the whole operation of the theatres branch, most particularly as they deal with censorship in our society.

I would like to hear from Mr. Sims on a number of themes. First of all, the matter of the community standards referred to from time to time. I'm wondering whether those standards are written down in any sense, or whether they appear as guidelines for the seven members of the board that reviews films. I'm also wondering what balance there is in the qualifications of the members of the board; the backgrounds and the particular experiences they bring to this task.

I'm interested in two other areas in a preliminary way. One is the matter of appeal. As I understand it, there is no particular appeal on decisions made, other than for a review of the decision. Is that review done by some other individual? Are the reviews done, as a rule, by the chairman? Perhaps you might explain to us how that circumstance is attended to.

I'm also interested in the matter of the inspection and safety operations. It's my understanding now that at least some of the inspection matters are being attended to by inspectors of the Liquor Licence Board of Ontario, which may in many ways be more convenient, where there is a framework already in place. Are you still maintaining your own inspectors at all?

Hon. Mr. Drea: Maybe I should answer that, Mr. Breithaupt. The theatres branch inspectors have been integrated into the liquor licence board staff. Primarily, their responsibility was fire protection, obviously, numbers; and certain types of storage facilities and so forth. They are united with the liquor licence board people because they are an asset to them. They are experts in seating capacities, exits, and so forth. That one branch now does both. You can also now have more frequent inspections because, bear in mind the inspectors of the liquor licence board are agents of the Office of the Fire Marshal of Ontario, and trained specifically for fire inspections.

That was a policy decision that was made. I don't like to say in terms of restraint; there was a vacancy there. I think the chief inspector referred to him last year. He wouldn't attend; he was shy. His name is Bill Watt. How many years did he have—24 years? He's been around a long time. He did not want to come.

When Mr. Watt retired, there was the question whether we continue that as a separate entity or was there a place for assimilation that would provide just as good service but on a more efficient basis to the taxpayer? At that time that policy decision was made. I must say it is working well.

Mr. Breithaupt: How many individuals were involved in that transfer?

Mr. Sims: There were three.

Mr. Acting Chairman: Will the speaker please identify himself for the purpose of Hansard?

Mr. Sims: My name is Sims. There were three people who were inspectors transferred to the LLBO. But we then took on something like 104 who become responsible to this office under the Theatres Act.

Hon. Mr. Drea: The theatres branch inspectors were sworn in as liquor licence board inspectors, and all those with the liquor licence board, virtually all of them, the field men, were sworn in as inspectors under the theatres branch.

Mr. Breithaupt: If, then, Mr. Sims can comment on the matter of community standards and qualifications. I'd also like to hear some comments on another theme which he has raised concerning the possibility of a fourth classification. I understand that he is interested in having some further classification where there are now general, restricted and adult, in between the restricted and adult theme. I would be interested in what his views are; the kinds of films that he thought would be worthy of fitting into that category, if that in effect did develop. So perhaps if Mr. Sims could review those themes then I'm sure there will be more particular questions on individual items thereafter.

Mr. Sims: Mr. Breithaupt, it almost takes me back to the days of interviews. I wonder how many questions—I wrote them all down and I'll do my best to cover the whole picture as briefly as possible.

First you ask about community standards. That has been the concern, of course, not only of our particular bailiwick but also of anybody who has to deal with something that has to do with the public. A great deal of our research has been towards how do you really read what is going on in a community; what is acceptable. When I first came into the picture I began to read that in the United States a product was not being accepted with the same kind of acclaim that it was 20 years ago, 25 years ago, maybe even in the mid-1960s.

It culminated in a petition by the National Association of Theatre Owners in the United States, going to the producers, writers and people involved in that industry and saying to them that language, violence and sex—if you want to put things in boxes; I'm not so certain that you should but that's the way they were doing it, some people still do it that way—that these things are no guarantee of box office. So it began to turn around just about three or four years ago in terms of reaction from the industry itself.

That started me off on a line of thinking, "Where do we go in terms of finding answers?" Well, if we look at our newspapers every day, we find that we don't see the language that we are passing from day to day. We don't see the pictures we are passing from day to day; and we are challenged on the basis of the fact that we are impinging on civil rights and freedom of speech, et cetera. So we look at that and we say, "Well, we are going much further, for instance, than we did in 1974." I can think of one or two instances. I don't want to use the language here because I'm sure it would be offensive to those who are present, or some of those who are preesnt at least, so I'll leave

it out. The important thing is, we've gone further than we did in 1974 and it's acceptable.

But then there comes another point when you begin to get a mail response and telephone complaints; as well as letters to the editor. You see things going on, in terms of polls in the papers. There was one last Saturday that talked about there being a slight swing to the right again, because of sex and involvements and various things that are on the romantic side of life. All of these things are taken together and put down in a pattern.

Now as it did in the United States with the theatre owners' association, we had it happen here at the Ontario level with the exhibitors, and right across Canada. They, too, said the same thing. We want a better product. I'm sure you've sat in some of the places where you've heard people in the industry saying, "We're not happy with this kind of product; but we have to do it." I think one of the things that has never been underlined is that the distributor in Canada who brings in a product from the United States is hung with that thing in a little box. It's all done. He's given so much budget, and it's shoved up into Canada. They say, "Here's your product. Do something about it. Try and make a deal." Now on the industry's side, he has his problems. On our side, we have our responsibilities. We have tried to be accountable to the people of the province by saying, "This is where we believe the people of Ontario sit in terms of acceptable community standards today."

There was a time, I suppose, when some people—and perhaps even today—read into it that we are dealing with things like obscenity and the Criminal Code. Yes, that's the bottom line, but it's not what we look at today. We look at what is tasteful, what is decent, where is the line beyond which we do not go? That's where we are at, if I might use some incorrect English.

The problem with the recent discussions in the media is that you don't get the fact that we have looked at, in the last four or five years, some 5,000 major features. We're talking about five or 10 in that period of time that have been discussed in the media and made a big issue, which is part of my ball game to try to accept and explain. When you look at the record of the branch and what we have done I think it's a magnificent job, not only because I happen to have seen it for the last five years, but before that it was going on, and because of the gentleman who was here, Mr. Belcher, and the guidance that he has given members of the board and myself in bringing us into the picture as we have done this process down through the years.

On community standards, you're always going to get somebody challenging and saying, "How do you know?" I don't think anybody really ever knows, but we did see it in a Supreme Court decision of January, 1978, when the court said the provinces have a right to do this job, in terms of community standards, as it affects that particular community. In other words, they recognized that there were differences across the country in terms of community standards. So we have tried to respond to that. If you have read that judgement I think you'll understand why we may be subject to criticism, and that's part of the ball game.

Yet we have tried to do a fair job. As I said a moment ago, I think, in my own personal view, we have gone further than I would like to have seen us go, but that's another story. We operate as a democratic board. There are five members who sit there. You wanted an idea who they are. I hesitate to mention ages, but we have two ladies in their thirties, one single, one married. One came from a library and she has a very good background in Osgoode Hall. The other one is a young lawyer. We have another gentleman who came out of private industry. He has an arts degree and he has taken several courses in criminology. We have another lady who came out of the University of Toronto management group with several degrees in various social sciences. We have another chap who came out of the industry. He was a theatre manager and inspector, and has many other attributes in terms of theatre activity to his credit.

You've heard about Mr. Belcher. You've heard about myself. I came out of the media, and I've been involved in show business, I guess, since 1934. That takes care of the board makeup.

I think we have a very good representation of a cross-section of the community, and believe me, we don't always agree. The board has disagreements, just as I've watched it here this morning. We don't always come to the same conclusion. That's why you have this difference between now and 1974, because things have got rougher, pictures have become rougher as time goes on, but the community, because of television, accepts it. We feel a light swing to the right. I haven't finished, and I'll come back to your questions if I can finish one more point that I had here.

You asked about the appeal procedure. There is no appeal such as you suggest. We do have an appeal of a kind, in which the distributors, and on some occasions even pro-

ducers of a particular film come and sit down with the board. They do exactly everything that they would do under an appeal procedure, but it is not a legally constituted hearing. It's done with the board members themselves, where they just lay it on the board members and we listen, and in some cases it's turned around; but we do listen.

[12:00]

Mr. Breithaupt: If I could just complete that point. Ordinarily, is there more than one person viewing a film at a time, or do individuals work on particular themes or films, so that this review, when it comes, would come to the full board, or four or five persons? Perhaps you could just give me that background.

Mr. Sims: Mr. Breithaupt, the whole board as a rule; and I mean by that five are working members of the board. They're there from 8:15 to 4:30 daily; and Mr. Belcher and myself are doing the administrative side of the job which is necessary. Then when we're into a ball game with a controversial film we're called into it.

Mr. Breithaupt: So ordinarily, they're seeing all the same films at the same time.

Mr. Sims: For 90 per cent of the time, I would think. You have to remember that if we have, say a Disney film come in, one board member might be detached to look at it. If there is anything in it he would call the rest of the board, stop it and we would all go in. That kind of thing.

Mr. Breithaupt: You were going to comment upon the matter of this additional category that you had observed on as was reported.

Mr. Sims: Yes. I've had some discussion about it. I've felt there has been a gap. Let me go back. We have three categories in the province of Ontario. Most other jurisdictions, with the exception of one in Canada, British Columbia, have four categories. I have felt there has been the necessity for something between the adult and the restricted. We have, as I say, three categories—general, adult and restricted. I've felt we might improve the selection, in terms of placing the responsibility on the parents, by saying to whatever age group was decided upon, "You can go, provided your parent or guardian goes with you"; that kind of thing, as is now constant in two other jurisdictions in Canada and in the United States. What it does is give another option.

That's been discussed in the media, and that's why you know about that.

Mr. Breithaupt: That's fine for the moment; thank you, Mr. Chairman.

Mr. M. N. Davison: The words that really stuck were "a good cross-section" of the community, on the board of censors. I know you didn't name names, but Sims, Belcher, Cunningham, Enright, Walker, Brown, Black—in one way they are not a very good cross-section. They don't represent the ethnic makeup of the greater community that is Ontario. For example, in Hamilton Centre much fewer than 50 per cent of the people are originally from English-speaking countries. In my riding there are 50,000 people of Italian descent; and the figure in Toronto is what, about 400,000? It's huge, absolutely huge. In that sense, and I address these comments to the minister, the board is not representative of the community as a whole.

With the exception of the junk films, which are the real headache, in terms of day-to-day work I get a bit worried when I look at some of the things that are cut, or rumoured to be cut. The current controversy now over Bertolucci's new movie "Luna" that's taking place, is an example in point, where I think the board does not understand the ethnic makeup of our community when they talk about community standards.

I'll be pretty frank about it. You've got a film by one of the world's leading and most respected directors—not a junk, exploitive-type movie by anybody's standards. Yet we're in a situation—at least a week or two weeks ago—where the issue was either that we cut two scenes from it or the film may well not come to Ontario. I don't know what's happened in the last couple of weeks, but I don't think that's terribly relevant to my point. The thing is that it did happen, and we did come to that point back in early October.

Take a look at the scenes we're talking about. We're talking about a sexually explicit scene in which all of the parties are wearing their clothes, that's one example. We talk about another scene in which there's controversy, but there's no sex act in the scene. Those are the two crucial scenes in the film that have caused concern to be raised. Now the real issue there deals with the relationship between the individuals, as nearly as I can tell from what's been said in the press. That's a cultural distinction that worries me a lot in what I see in the work of the censors.

Hon. Mr. Drea: Maybe Mr. Sims could tell you what those scenes were. I really don't think there's a cultural distinction in those scenes.

Mr. M. N. Davison: I'd be happy to hear the rationale, but it seems to me—

Hon. Mr. Drea: Would you tell him what those scenes involved?

Mr. Sims: Yes; a mother masturbating her son.

Mr. M. N. Davison: Both fully clothed.

Mr. Sims: Well, it is possible. I'm not going to get into the mechanics of it, sir, in terms of—

Mr. M. N. Davison: It's a simple question, are they wearing clothes or are they not wearing clothes?

Mr. Sims: Did you hear the sound track, sir? It's a little different ball game than just making it sound like they're fully clothed. That's a very interesting argument, but I'd like to come back to your observations about the makeup of the board.

Hon. Mr. Drea: No, no; what was the second scene?

Mr. Sims: Oh the second scene, I'm sorry. That was a scene of the son between the mother's thighs, the pubic area; which we have never passed, it's just one of those things. I think you could understand the implications of that if you saw it.

Mr. M. N. Davison: I can understand the implications of it, but I don't see that that's a great deal worse than anything else I've seen on the screen.

Mr. Sims: Oh well we'd like to have some comparisons on that, sir, because we've never done it. To my knowledge it hasn't been done in my time.

Mr. M. N. Davison: The point being that a significant portion of our community may miss what may well be one of the better films of the decade.

Hon. Mr. Drea: I doubt that, Mr. Davison. You know there are a number of prints of that around now which are different. There's a different print for Italy and Europe that has not been submitted here. This is quite common in the industry, you know, to make a number of different prints to see which one will fly and where.

Mr. M. N. Davison: My question about the makeup of the board is not directed to Mr. Sims. It's not Mr. Sims' responsibility, it's a ministerial responsibility to see that boards and commissions of this sort appropriately reflect the community.

Hon. Mr. Drea: Yes, it is.

Mr. M. N. Davison: And ethnically the board doesn't even come close.

Hon. Mr. Drea: Mr. Davison, that's a matter you have pointed out. I think I will keep it under consideration. I think you are aware of what I did—and bear in mind that these are appointments that are staggered, they don't all come up at once.

Mr. M. N. Davison: The most recent two were 1978 and 1977.

Hon. Mr. Drea: But when I had the opportunity, when I had to start up a brand new thing as I did with the Ontario Parole Board, I don't think you would have any quarrel with that.

Mrs. Campbell: It seems like an unfortunate comparison.

Hon. Mr. Drea: No, I'm talking about when you have a brand new board. I'm very conversant with the makeup of a board, and I wanted to make that one—and I don't like the word ethnic—a cross-section of various peoples in the province. I was roundly criticized for it, by the way, roundly criticized. Not by you, I don't mean to impugn that. In the case of a board like this, yes, I constantly keep that in mind; but where you have a very limited scope—in my time, for instance, there hasn't been any vacancy. I am looking at this type of thing in all the boards when they come up.

Mr. M. N. Davison: You have an agency, a board of the government that deals with cultural, social and moral manners. You've had two appointments in the past two years to that board with not a single, at least readily identifiable, Italian, Pole, Ukrainian or what have you. I think that's wrong; it's something you should try to correct, as quickly as possible.

Hon. Mr. Drea: I don't know if to "try to correct as quickly as possible" is germane. I'm not going to relieve people who are doing a good job. I think you don't want that. Just let me put it so that you don't come back at me a year from now and say something. When I look at these things I have it constantly in mind to keep on broadening the base. From time to time, when there's an appointment coming up, if there are people who are interested and qualified, then yes, and I think my record shows it, I'm taking your advice.

Mr. M. N. Davison: December 4, 1978 was the last opportunity to add a new member to the board.

Hon. Mr. Drea: Well I wasn't doing it then, Mr. Davison. December 4, 1978? Oh yes, sorry. Who was appointed December 4, 1978?

Mr. M. N. Davison: Mrs. Black.

Mr. Sims: Her name was Black and is now Sexton.

Mr. M. N. Davison: It was a perfect opportunity, less than a year ago, to make the board more representative of the community.

Mr. Sims: One thing, Mr. Minister, with respect: when you look at qualifications of people, it is not names you are looking at it is people who have some rapport with the problem. Those were the people who applied and who we felt were the best candidates.

Hon. Mr. Drea: I will keep your advice in mind.

Mr. M. N. Davison: I think it's advice that should be acted upon if that board is truly to reflect the makeup of our community. I think that may well be a serious problem.

Mrs. Campbell: I would like to develop Mr. Davison's theme. I feel very strongly that we don't seem to have really changed our boards and commissions from the philosophy of the old Family Compact days. We are living in a different society.

I don't want to see somebody taken off any board for some purpose which is not valid, but I would like to see perhaps an enlargement to accommodate a true cross-section.

I have had a great many letters on two films which seem to be controversial. It is always a problem for me that I am talking in the abstract. I have not seen the films; I cannot know, for instance, what the Italian version is. In one letter the complaint was that this was a film made for viewing in Italy, which had the highest standards of morality and a religious overtone and all the rest of it; perhaps the person who wrote to me was not aware of the Italian version.

Another case was a picture—and forgive me, I have forgotten the name of it already, a Brazilian film.

Hon. Mr. Drea: Could you let Mr. Sims explain that one? There is a great deal of misconstruction, et cetera, about this one.

Mrs. Campbell: I'd be delighted, except that I have to tell you that seeing something—

Hon. Mr. Drea: Do you know that one's already been through? You could have seen that two years ago; it was already through.

Mrs. Campbell: All right, then I don't know.

Hon. Mr. Drea: It was already through. This is why I don't understand where all this stuff comes from—

Mrs. Campbell: I so seldom go to a motion picture theatre any more that I really don't know what is going on.

Hon. Mr. Drea: As the minister responsible for the industry, let me encourage you; there is some very good stuff out there.

Mrs. Campbell: I am sure there is.

Hon. Mr. Drea: If you would explain that one, Mr. Sims? I think you will raise your eyebrows a bit at what Mr. Sims tells you. What is the name of this one?

Mr. Sims: Dona Flor and Her Two Husbands.

Hon. Mr. Drea: Shown in Toronto two years ago.

Mr. Sims: It was submitted two years ago, as the minister says, and we made a minor cut. I don't know about timing; it is just coincidental that it came up at the same time as Luna did. I suspect that, as happens many times, the board and the media are used to promote such films, that's what happens.

You say why was this allowed to happen? We have no control. If a person submits a new print and there's no cut in it, we just look at it. We call them and say, "Here's what has happened. It has already been submitted and there is a cut in it."

Immediately the person got on the phone and called the producer. The way we get it back is that the producer won't do it now. Our only assumption is, of course, that somewhere along the line he must have done it; but now here is an opportunity to jump in when things are a little hot and get some additional advertising.

Hon. Mr. Drea: The history of that film, Mrs. Campbell, is that two years ago it was submitted to the branch. The Ontario Science Centre, one of the film groups, wanted to show it. There's really very little commercial attraction here. They submitted it. It was shown at the Science Centre. It's hardly one of the greats of our time. Another person comes along, and says: "Do you want to show this in Canada?" I don't know what it's commercial application is today. I hardly think it will compete against Apocalypse Now, or anything. None of the general people are terribly interested in it. We say: "No, not that print, the one that you had here," and they say: "But you're changing your standards." We haven't changed them.

[12:15]

The Science Centre has shown it. I can't even say it got mixed reviews. I don't even think it got a review. In fact, I'm not too sure the people who bought it know whether they've got a print, or whatever print it is, et cetera. I think what they were originally concerned about was that we were doing more than we had done two years ago. We weren't.

As I say, this is quite common. One of the difficulties, as you know, is that in the United States, because of the very fragmented system

of review, censorship, whatever you have—which isn't even between states; it is now, because of the Supreme Court's decision, virtually between cities. If you want to see it operate I suggest you go to Detroit, and then just cross over Woodward Avenue into Hamtramck, and Hamtramck has nothing. Mind you, you can't buy a gun in Hamtramck; they have a little different standard from Detroit.

However, to return to films, they make a number of prints, because they're obviously going into different markets, and occasionally you get a print that's meant for Canada, because the truth of the matter is, we do well in Canada. We do, because we're the big market. The distributor puts it in here and if it's okay here it's okay for the rest of the country. You do get into some quarrels sometime on prints, but if you were to read the media on this thing, that here we are imposing a new standard on a film that we had once cleared, we haven't. I don't know what she did with her two husbands, but nothing has changed.

Mr. M. N. Davison: It's not the same issue as in Luna.

Mrs. Campbell: I am only saying that these are the matters which have been raised by my constituents. I want to make it clear that I seem to have no time for movies, for theatre, for television or anything else, so I often feel very out of touch with these things. But it bothers me when members of the public express concern that they do not have the opportuntiy to view something which they feel is important to them.

I would like also to ask about the matter of description as opposed to classification. I wondered if anything has been done about that. I have a very strong sense of the importance of parents being very well aware of what pictures are being shown. I have a concern for our young people in what I see—perhaps I'm neanderthal—but what I see as a growing pornography as far as a child is concerned, a young person, and I'm very much of a protective kind of person so far as the young people of our province are concerned.

There are two separate types of concerns that I have. I would like to invite the minister to give consideration to enlarging the board, if that is the route to go, to ensure that we have greater representation on the board of those people who are daily told by ministers of the crown how greatly they add to our society. I'm sure when they say it they mean it, because they have added, immeasurably, and yet they never seem to appear to be in a position of judgement on issues of this kind.

In addition, I would like to have some further statement about what we're going to do in the descriptive field rather than in the classification field.

Hon. Mr. Drea: Yes, I will address those matters. One of the things that's happened, Mrs. Campbell, and I advocated this—maybe it was before your time, maybe it was during—as a backbencher, the warning.

Mrs. Campbell: I've always been a backbencher.

Hon. Mr. Drea: I said "I", when I was a backbencher.

Mrs. Campbell: Oh, okay.

Hon. Mr. Drea: I think the warning has gone a long way towards that.

Mrs. Campbell: I think the warning constitutes an enticement.

Hon. Mr. Drea: Mrs. Campbell, that's one of the difficulties. People say, "Why do you insist that a theatre cannot put its own warning on?" And it's for exactly that reason. If you put up "warning", et cetera, you have a certain enticement; so that has to be done only by the censor.

I think it has been very important in two areas. One is the language. This is constantly, I would say, the objection of parents, because I think by and large the sex or the violence thing has been eliminated. The language is difficult because you can't really tell at the door what the language is going to be until you're in there.

You can have a description of a sex film outside, and it will tell you, even if it's sliced up pretty well, it is obviously an exploitation type of film. But language is different. You can get some very fine products now, very good products, and yet the language, to a very great number of people, is dreadful. You have that warning. And you also have the warning, and we've had to use it a couple of times lately on anti-religious themes.

Life of Brian, for instance, with which, I must say the board had a considerable amount of soul-searching to do. Here is a recognized satirical group, and yet for impressionable minds are you really satisfied that it is satire? I think in that case there has been widespread public support that the warning did have some value. I agree with you on the descriptive issue, but the problem in really spinning it all the way down the line is that you try to take the general view, and once again we're back to the case of a highly impressionable youth, of either sex, to whom

this may do something, but for the majority of them it won't. It's a difficult field to hoe.

One of the difficulties with a fourth category, as Mr. Breithaupt mentioned, is in a picture like All the President's Men. There was some language in there that ordinarily I don't think the board would have classed as restricted. But then you have to look at the overriding social value of that film. So they brought it down into adult classification in order that teenagers could go and see what happens with the deliberate abuse of power. There was an overriding one there. Maybe that was simple, but you get into some other films and here's your difficulty. They read the book, or at least they analyse the book in high school—for example—One Flew Over The Cuckoo's Nest, they take that in their English courses in high school—yet on the basis of what is in the film and the way it's portrayed it really should be classed as restricted so they can't go. This is where we are looking at this fourth classification; with their parents, they could go; or with their school class. In this case they've read it.

Mrs. Campbell: Go with their school class!

Mr. Breithaupt: Very often all there is in common is the title.

Hon. Mr. Drea: That's right, but these are areas whereby—

Mr. Renwick: Did I hear you correctly about One Flew Over the Cuckoo's Nest, that you can take it in school?

Hon. Mr. Drea: Yes, they were reading it in high school.

Mr. Renwick: But you can't see the movie?

Hon. Mr. Drea: It was restricted, for 18 and over, because of the language.

Mr. Renwick: Is the language in the book?

Hon. Mr. Drea: I have never read the book or seen the movie.

Mr. Renwick: I think that's shocking.

Mr. Sims: You get that with most of the movies. None of the screenplays are the same as the book.

Mrs. Campbell: You are saying to me that if these young people go as part of a classroom they can view the film, but they couldn't go individually except with a parent?

Mr. Sims: I think there's a misunderstanding here.

Mrs. Campbell: I'd like it clarified, because I thought that's what was said.

Mr. Sims: He was looking at that as a new category.

Hon. Mr. Drea: We're looking at that as a new category.

Mr. Renwick: I thought the book was a superb book and I thought the movie was a superb reflection of the book.

Mr. M. N. Davison: You're not on the board of censors.

Hon. Mr. Drea: Don't ask me. I didn't read the book and I didn't see the movie. I'm just giving it as an example along the lines of All The President's Men. I read that book. I thought it was a good book. I saw the movie.

Mr. Chairman: I would like to draw members' attention to the delegates attending the Fifth Canadian Regional Seminar of the Commonwealth Parliamentary Association who are in our gallery. We welcome them.

If any of you have any questions, I'm sure that if you approach a member of the committee and write out or give him the question he'd be happy to ask it for you.

Mr. Stong: I have a few questions arising out of what has been said here. First off, I'm interested in your description of the standards that you apply. How you see your role as a censor board in setting standards for society as opposed to following standards in society.

Mr. Sims: We try to the best of our ability to reflect, neither lead nor follow. We try to reflect.

Mr. Stong: As I understood your presentation at the beginning, you drew your information from society by virtue of letters to the editor and reviews in the paper, I assume, and polls that were taken. What other things do you use?

Mr. Sims: By going to the theatre, by listening to the reaction, by talking to people, by attending university seminars, speaking and having questions thrown at us as board members, school gatherings—any number of places.

Mr. Stong: Is there any prerequisite in the background of each member of the board before he or she is hired?

Mr. Sims: Yes; I can only speak, of course, from my own viewpoint since we've hired additional members since 1974. I was looking for somebody, as indicated, that had some background in the social sciences, who'd had a real awareness of what's going on in the community today.

Mr. Stong: Is there an application form used, for instance, when you are hiring a person to serve as a board member?

Mr. Sims: There's a job specification posted with all of those things in it.

Mr. Stong: What was the job specification?

Mr. Sims: I don't have it with me, I'm sorry.

Mr. Stong: I wonder if you could supply that, just as a matter of interest. What kind of things were you seeking, in a person who would serve in the capacity of censor? What, in the individual you hired, struck you as important? What were you looking for?

Mr. Sims: First of all, that somebody had an awareness of what was going on in terms of the social sciences because of the background; secondly, a linguistic background. I forgot to mention that the last two board members hired were both capable in the French language. Two of them, I forgot to tell you, had five languages. There was something in there about the word you used—and I don't like it—"ethnicity." I think we all are that. The important thing is, coming back to your question, Mr. Stong—

Mr. M. N. Davison: I'm sorry, sir. This is not a joke, this is a serious matter.

Mr. Sims: This is not a joke to me either, sir.

Mr. M. N. Davison: You've got a board that's dealing with social and moral issues with nobody who comes, for example from the Italian community, which is one of the major communities in this province. That board cannot reflect the broad society if it doesn't represent them.

[12:30]

Mr. Sims: One came from Scotland. Is that fair? Is that part of it? One was born and raised in Scotland. I guess it depends upon where you sit.

Mrs. Campbell: I'm proud of that. It's nice that we've got a Scot there, but really in these days I have to take exception too. It seems to me that the fact that somebody speaks another language or many other languages is not really the issue. It's the fact that the person is a part of a community which may well have a different point of view. That's what we're talking about. At least that's what I was talking about when I followed through, and I think Mr. Davison is saying the same.

I am not denigrating the members of the board per se in any way. I'm simply saying that when you talk about a cross-section of a community, then you have to mean that in depth.

Mr. Sims: If I might just speak to that again, I guess I was misunderstood. We do have a problem in the board in looking at international films where there is a language problem to interpret. That is one of the things we look for, since I have come, in terms of language capability. I think the minister has spoken to the fact that we'll be looking at the comments in the future.

There's no question about that. If I might get back to the other question—I've almost forgotten where I was.

Mr. Stong: Perhaps I can refresh your memory because I am interested in this. Because we're dealing with social and moral issues, I wonder if you could give us some idea when you are going to hire someone as to what kind of investigation, what kind of demands and what you look for in the person who is going to serve as a censor in terms of morality or of belief or of expressing himself or herself in that particular area?

Mr. Sims: It would be fair to state that we look at a person's qualifications based on what we see there and we get a recommendation in terms of references. We don't go into their backgrounds. We don't do anything like that.

Mr. Stong: Is there any concern about the fact you're dealing with moral standards in the community.

Mr. Sims: Acceptable to the community and reflecting those standards; I don't know whether I want to get into that word "moral" or not.

Mr. Stong: It seems to me that you can't get away from it. When you're going to censor or tell someone what they can or cannot see you are making that type of a judgement; you can't get away from it. Do you see yourself as making a moral judgement?

Mr. Sims: We don't see ourselves doing that. We see ourselves reflecting what we believe the community will accept.

Mr. Stong: By what standard?

Mr. Sims: By the very things that I've been discussing, some when you were here and some since I've been here, the business of trying to read what the community standards are.

Mr. Stong: Maybe we're on a merry-go-round and just going around.

Mrs. Campbell: You try to decide, but on the basis of what criteria?

Mr. Sims: We don't have written guidelines.

Mrs. Campbell: I know that; that's one of my concerns.

Mr. Sims: We had them once.

Mr. Stong: It seems to me you're using the chicken-and-egg argument here; how can a person judge something if that person hasn't

seen it? How are you going to get a reaction from the community if the community hasn't seen it? You're relying on the reaction from the community before you make up your mind what the community should see.

Hon. Mr. Drea: I think there are some standards that the community does set.

Mr. Stong: That's what I'm trying to find out. What are they? What are the standards that the community is setting?

Hon. Mr. Drea: I'm not going to use some of the descriptions, but they are not reliant upon the Criminal Code. The public at large does not want undue violence or very explicit violence for the sake of violence. You balance that off vis-à-vis the film. If it's a straight exploitation of violence for the sake of violence, that's one matter; but if it's violence in what I call, for lack of anything else, a first-class production, it may be necessary to it. You still don't want it to be very explicit. You don't want decapitations with special effects where there are pulsators used. You don't want disembowelments, which have been used with special effects and so on; some of the acute violence anyway.

You don't want undue sex for the sake of sex. There is a line drawn by the public. The public does not want explicit—

Mr. Stong: May I ask a question on what you have said? For instance, let's take disembowelment and its violence. Would the board's opinion be different if the movie theme portrayed war, with the purpose of showing the horrors of war as opposed to a street gang fight in the city of New York or in the city of Detroit, or something like that?

Hon. Mr. Drea: I think it would be. But bear in mind, too, that there are ways of showing a disembowelment that is being shown.

Mr. Stong: Well, the horrors of war are pretty real when a guy gets shot up on a field; what are we doing in the movie?

Hon. Mr. Drea: Yes; but do you want him with pulsators bleeding from an empty head, et cetera—

Mr. Stong: Or spurting out of a vein in his arm, or his stomach or from somewhere on his body. That is the horror of war.

Hon. Mr. Drea: If you take, for instance, the size of the movie—

Mr. Stong: But what is the standard?

Hon. Mr. Drea: I saw it so the board must have approved it, and I refer to Apocalypse Now. There was some pretty grisly stuff in there. If I recall correctly, towards the end, you got a little bit weary in that one; there were decapitations. These people had been decapitated. There had been an armed raid on a village where it was extremely violent.

Mr. Stong: Are you talking about things that were cut?

Hon. Mr. Drea: No, no; I said I saw them so the scenes must have gone through. You know I pay to go—

Mr. Stong: So do I.

Hon. Mr. Drea: —just like everybody else; okay. I think you've got a good point. Then you get down to some of the street fighting, where the plot is very incidental. There has been no work done on a plot and now these are, of course, subjective ones. This is one of your balancing techniques. We have had a number of films: let's take the film The Texas Chainsaw Massacre. Okay, it went through: the Crown laid information, et cetera, in the city of Ottawa. The crown didn't care what we did. As far as they were concerned they raided the theatre. Under the crown interpretation in Ottawa, at least, of the Criminal Code, the film had undue violence within the meaning of that phrase.

You don't hang with the Criminal Code on censorship though. I think the board rules on what the public wants; which is no undue violence—and I think "undue" is the operative word, that is a subjective one—and no undue sex. They don't want manipulation of children. It is a very sore point with the public today. They don't want children used; whether clothed or unclothed is pretty incidental to the public, the concern is within the main theme. There are other things the public doesn't like; such as, depending upon their persuasion, anti-religious films. They don't like religion being held up to mockery.

Probably the biggest single item on which we receive letters is really a hoax situation, as a producer in Europe keeps maintaining—I think he raises some money doing it—that he is going to produce a film called The Many Faces of Christ.

Mr. Breithaupt: I don't think it exists.

Hon. Mr. Drea: He has put out a description of it that is going to have Christ in a variety of sexual modes. I won't go into them. People are absolutely just thunderstruck. How can you let this go on? Well, the movie hasn't been made.

Mr. Breithaupt: It doesn't exist.

Hon. Mr. Drea: It doesn't exist but I think he is making a good living. Various countries from time to time are mentioned in it saying that he is going to do it. They become very up tight because these countries don't want

to be deluged with letters, et cetera. The religious area is a difficult one, sometimes, when people feel they are being affronted, when such a picture is hard core.

There was a great deal of concern that people of the Calvinist persuasion would be very deeply offended by some dialogue involving a prostitute and a very religious Calvinist. She asks some questions about predestination and finally says Venus is—she is a Venusian—something is bad.

I think if you look at it in balance, that what else would you expect from that type of person, from a very sincere person trying to explain himself, because he says certainly the airport is not the time to explain this. He then goes on about his world. There was some concern, expressed prior to release, by the Dutch Reform Church, or various Calvinist persuasions, when it is put in balance.

As you know with Life of Brian—and Mrs. Campbell asked before about the description—I think the warning that was put up by the censor headed off a great deal of the controversy.

I happened to be in New York City when the rabbinical council in New York City wanted that thing stopped, and I can understand their feelings. Then, of course, the Catholic archdiocese was brought in. I think here it has been avoided. The people who wanted to see it as satire, see it as satire, because the warning is very explicit on all of their advertising that this may be—what is it, "may be" or "will be?"

Mr. Stong: Offensive to persons of religious beliefs.

Hon. Mr. Drea: Offensive to persons of religious beliefs; okay. In a case like that, the Monty Python troupe will tell you no they are not. It is a satire and some of the things are deeply religious. They show the fallibility of man. They are haggling over a coat, an amount of money, in a back row while the Sermon on the Mount is being delivered. I'm quite sure while the Sermon on the Mount was being delivered, there were a number of people in the audience—there always are—who were doing something other than paying rapt attention. By the same token, when you put it out to religious people, they feel this is the thrust.

In general, I was saying explicit sex, the actual portrayal in explicit terms, is obviously out. It is the same definition and under the same judgements anybody would use under the Criminal Code.

Mr. Stong: I take it one of the biggest arguments the board of censors has to face is the fact by excluding certain scenes you are detracting from the theme or the overall purpose of the movie; that is one of the problems you really have to wrestle with.

I don't know what the theme of Luna is, but I am going to say from what I have heard here this morning you have my vote of confidence on that issue. I do not think incest or anything that smacks of incest in this society is acceptable. I hope it never is acceptable. I speak from a background of a defence counsel who has appeared in juvenile courts with fathers and daughters, for crying out loud. I'm going to tell you something, you come out of those courts—it is hard to administer justice in those cases because families are involved—hoping upon hope that young girl was not affected for the rest of her life by something she has been put through. But there is no proof, there never is any proof. I can't get away from the word "morality." Maybe it is wrong to use morality, I don't know. I guess you have been through this so often you are able to use community standards in place of morality.

Hon. Mr. Drea: They are the same.

Mr. Stong: Well I would have thought they were too.

Hon. Mr. Drea: They're the same.

Mr. M. N. Davison: Are you going to stop the King Tut exhibit now?

Mr. Stong: No, not at all. You can go to the extremes of ridiculousness if you want, but it seems to me incest is not acceptable behaviour—but there I go, acceptable behaviour—at this stage.

Mrs. Campbell: I wish I believed that to be true.

Mr. Stong: It seems to me that we have to—

Mr. Renwick: May I comment, Mr. Chairman, on that?

Mr. Chairman: You are next on the list, Mr. Renwick.

Mr. Stong: There are two other things I would like to deal with first. One is I realize there is expediency in the movie industry, and therefore we are talking in terms of appeal, appealing your decision, perhaps the ultimate appeal is with the minister or with the Legislature. I know there is nothing written in law, but it seems to me the board has to respond in that regard to the expediency. As we were talking about suffering losses earlier, the industry just can't have losses or delay inflicted on it while there is some kind of an appeal procedure to follow. Therefore, it seems to me the only thing that can be open to the board is the way it is operating

now, in terms of having to deal with the matter right then and there so the matter can be resolved.

The final thing I am concerned about is this fourth category you are contemplating introducing or discussing, and that is the category between adult and restricted.

It is tough sledding out there for people with young families. I happen to be one with a young family. I know if you introduce this new category my daughter is going to come to me, or my son is going to come to me and say, "Well look, it's listed that you have to be with me for me to see it. Therefore, I want to see it. Will you come with me?" If I don't go, she is going to get an 18-year-old or someone else who is a friend, who can prove him or herself to be older. I can't see the logic and I can't see any less detrimental effect on an impressionable mind by virtue of the fact, and only by virtue of the fact, they have an adult sitting beside them in some of these movies. I think I agree with Mrs. Campbell that it is better to have dissemination of more information on a particular basis about a particular movie rather than introducing a new category.

Mr. Chairman: Thank you, Mr. Stong.

Mr. Stong: I wonder if I could have some reaction to that?

Mr. Chairman: You wanted a response to that?

Mr. Stong: Yes, please.

Mr. Chairman. A brief response?

[12:45]

Mr. Sims: On the category, sir, there is a great body of opinion that believes we should have the parents taking responsibility to take their child there. There is a segment of the population, from what we have been able to study, which has your viewpoint. That is about the only comment I can make. It wouldn't be done without a little more research.

Mr. Chairman: Thank you. We do adjourn at one o'clock and we have the problem that we have agreed to carry this vote. If we can keep that in mind, I have Mr. Renwick, Mr. Bradley, and Mr. Ziemba who was disqualified. He was on the list ahead of the others but by my asking him to take the chair while I went away to another meeting he lost his place, so I have to allow him a question; and Mr. Taylor.

Hon. Mr. Drea: There is a lottery question as well.

Mr. Chairman: There is a lottery question also. We may have to hold the vote over.

Mr. Renwick: I want to co-operate. I'd like three minutes. If anybody wants to watch the clock, I'm quite happy.

Let me give you my questions. We could go into them for a considerable amount of time. My first question is both to the minister and to Mr. Sims. Is it not time this function be transferred to the Ministry of Culture and Recreation, since movies are a cultural expression of our time and in many cases are considered by some people to be an art form in certain of their versions of it?

Hon. Mr. Drea: I would answer that, Mr. Renwick, just by saying it is now in the realm of public entertainment standards in a ministry with the determination on horse racing, theatres and lotteries. The Ministry of Culture and Recreation, on a public entertainment standard, wants it transferred over to us. We took the Athletics Control Act from them because it was their feeling over there that public entertainment standards were far more germane to our ministry. I just give you the background.

Mr. Renwick: Yes. I am sorry it is that kind of dead end. I think this particular matter of censorship, where it relates to a cultural form of our society, should be in a Ministry of Culture and Recreation.

My second matter is simply a comment, without escalating the matter in any way, and treating it, I hope, simply as an oversight; I would ask the minister and Mr. Sims to take into account something which cannot be categorized as tokenism at all, and that is enlarging that board if necessary so the board will have the benefit of the kind of cultural interchange of expressions with respect to community standards. It is not from the point of view of isolating each group's standards and making them different, but because in a city like Toronto there are movies, not just international movies, that Mr. Sims could well be advised to have the kind of cultural interchange a person from India, a person from Greece, a person from Italy or a person from Jamaica, could very well add to the kind of discussions and the development of the principles and the guidelines under which they operate.

Hon. Mr. Drea: I think, Mr. Renwick, in fairness, that should only be addressed to me because that would be a policy matter, to expand the board; it wouldn't be Mr. Sims' responsibility.

Mr. Renwick: I recognize it is, but you would undoubtedly want to have his views. I think it is absolutely essential that be done.

My third one is both a question and a hope. In London, England and in Paris and

in New York, and in all other centres but I am talking about those, there are men and women who are superb movie reviewers. I want to know whether or not there is any consistent method by which this board, reads and thinks about the kind of comment Penelope Gilliattt would make or Judith Crist would make or Donald Barthelm would make, or the fellow who writes in Le Monde in France would make, about movies as such, and whether or not there is any sort of sense of that in the board.

Mr. Sims: Yes, there is, Mr. Renwick, we do read those; and it's not before we look at the movie, but after.

Mr. Renwick: Often they are not out until the movie is released.

Mr. Sims: Right, as a rule.

Mr. Renwick: But they can be useful from the point of view of the atmosphere within which you criticize or deal with films.

Mr. Sims: I think I stated earlier, perhaps you weren't in the room, that we do have disagreement on the board for that very reason, that we have this kind of dialogue at the end of each screening. That is exactly what goes on. Those things are brought into the picture and people discuss those things. That is part and parcel of our decision being processed.

Mr. Renwick: All right. I guess I'd better come and talk to you about some of these things myself; and perhaps with the minister some time.

Can you very synoptically tell me what the process was on Apocalypse Now? What do you do from start to finish?

Mr. Sims: Well we looked at it.

Mr. Renwick: Who? How many?

Mr. Sims: Five to seven actually.

Mr. Renwick: Five or seven, yes; right.

Mr. Breithaupt: Is there always an odd number for majority rule?

Mr. Sims: No. There were four sitting there this morning.

Mr. Renwick: What exactly did you do?

Mr. Sims: Pardon?

Mr. Renwick: What exactly did you do? That's an obscene film. I'm not saying that it should be banned, I'm not criticizing it. I'm saying that it's obscene. The violence is obscene.

Mr. Sims: We looked at it and we put the warning, "Some scenes and language might be offensive" on it because we knew that it had an historical background. It had been done two or three times in another milieu in a different manner and that was the way it was passed. But it was war as opposed to something else, wasn't it?

Mr. Renwick: What was the qualitative difference then, the kind of question that Mr. Stong raised? What is the qualitative distinction that gives some cultural step up the ladder to violence in war over other kinds of violence which are not socially acceptable as war?

Mr. Sims: I think that is the difference of the two arguments. If you remember we had a film a couple of years back called Snuff where they totally dissected, supposedly, a girl. We would call this undue, unnecessary exploitation of violence.

When you have a war situation, a Vietnam situation, you're looking at something that is pretty historical. The other one was proven to be a phoney deal, so we just excised the Snuff portions. With the other one we feel, here it is, I guess; and the judgement of the board was made, with no really heavy discussion on it.

We knew that there was a problem in terms of the fact that it may or may not be acceptable. It was a heavy film, as you well know if you've seen it. It really left everybody kind of drained and drenched. But we felt it should be passed in that manner. Whatever philosophical reasons you're trying to give me, I don't know. It's just, I guess, one of the places you have a gut feeling that this is something that has got to be done. It's not undue exploitation kind of thing; there's a story, with life.

Mr. Renwick: I've taken up more than my time, I'm sorry, Mr. Chairman.

Mr. Bradley: A quick supplementary: When you are talking about the definitions and when you talk about restricted, I often get calls from my constituents who would express some concern about this on how do you enforce the so-called restricted category.

Hon. Mr. Drea: Mr. Sims could probably tell you in great detail, but it is the obligation upon the movie theatre. Bear in mind that the description of the age is exactly as is in the liquor act, "apparently of."

Mr. Breithaupt: If this is not done are charges laid?

Mr. Sims: We have never had to lay any charges yet—

Hon. Mr. Drea: The industry is very good.

Mr. Sims: —but they lifted licences, I think, before I got there. We're on top of it pretty well.

Mr. Bradley: Everybody knows that it is not enforced.

Hon. Mr. Drea: Oh no, I wouldn't say that. The industry, by and large, is very responsible in this matter, and we don't have that much occasion—remember it's "apparently," and you have the same problem as you do with alcohol. Young people of 16 and 17 quite often look 21 or so, and they go in. From time to time we've had little disturbances in drive-in theatres. You've seen those occasionally, where there was a five- or six-year-old child in a car and it was a restricted movie and they turned them away at the gate.

I think you have to look at it this way: if a young person wants to beat you, 10 times out of 10 he will beat you. You are imposing a standard. I don't think we want to get down to the point where you have to carry a card, et cetera. I find that repugnant. I say, "If you want to beat us, you are going to beat us." To avoid the beating, Mr. Bradley, I'm really afraid you would have to set up a very tight system—and I think they'd still beat you.

Mr. Bradley: The point is I'm not even advocating that. The point I'm making is that it's almost a farce. I don't agree with you that the industry is policing it. It is going on. These people are going in and it's not being enforced. You may say the industry is doing so, and they may be in some instances, but to pretend it's actually being enforced and monitored well enough to satisfy certain parents is just not facing reality.

Hon. Mr. Drea: "To satisfy certain parents;" okay, that may be individual circumstances. I will stand by my remark that I think it is; but if members do get complaints, or citizens get complaints and they want to draw them to our attention, I will make sure inspectors go down there and not only caution but stand there, if it's necessary, to issue a warning or to remove a licence.

That would be very helpful to us, quite frankly, because you don't want an inspector loitering around the booth all the time. If you would send those over right away we would be very glad. We can handle it without publicizing the parents' names or that type of thing.

Mr. Ziemba: If there are more speakers, Mr. Chairman, I would prefer to be last. Perhaps this vote would carry.

Mr. G. Taylor: Let me compliment you, Mr. Sims. I, for one, think you're doing an excellent job and at present I couldn't think of any other way of doing it.

I've followed this, and having seen many movies—I think that's my hobby, movies and television—if you were to compare the two, I know full well that the industry produces different prints of different movies for different audiences, be they different countries or different communities. We've seen recently that Saturday Night Fever has a different version for the younger children and a different version for the adults. We see those same movies, having gone through the movie houses, later on TV, sometimes totally bleeped, sometimes cut off and segments cut out and sometimes with a warning saying some of the language may be offensive.

How do you compare these different audiences, having maybe seen the movie in its entirety and done some cutting and later seeing it on TV and noticing that again it's cut? If you watch the same movie on the American channels the Americans cut out more than we do on the Canadian channels.

What do you do and what do you foresee if the industry were to control itself? Would that be better than what is presently there? Could you see it exploiting the different audiences by their promotion, maybe as Apocalypse Now is a promotion of war we haven't seen done previously?

Mr. Sims: There are two comments. The British film industry controlled itself and at one point it was declared unconstitutional. Coming back to the United States, they do indeed have control of the classification system. It's my information that there are some 30-odd states now applying for a kind of censorship or control of film under their jurisdiction because the federal court case in the late 1960s, early 1970s, is just not supplying the kind of product most people are desiring today.

[1:00]

Closer to home, in the province of Manitoba, we have classification. After the story—the letter was sent to me—and I thank them for it, the motion from the NDP; yesterday morning, I guess, I got it—at any rate, I talked to the chairman out there and they have some nine charges. Six have already gone through the process; three have convictions under the Chiminal Code, three are to be heard.

In my view it's just not working, for this very simple reason: the exhibitor says to the distributor, "I don't want to get in that hassle so get me a BC print"—or an Ontario print or a Saskatchewan print, Alberta print—any print that's not going to be wide open, what we call a raw or original print.

What's happening then is that really you're using some other jurisdiction print to bypass that system, which is classification.

In my view, it's just not working. It doesn't work that clearly.

That question was then put to me, "What happens if we go to classification?" My answer would have to be, "Where then is the distributor and/or the exhibitor going to get his prints?" He'll be seeking some other haven to protect him because he doesn't want a whole list of court cases. It depends upon your local constabulary or enforcement officer, who becomes a censor. I don't think any of us want to see that.

Those are my views on it. Now back to television for one moment. I know one picture we looked at—and I'll name it if you wish but it's not necessary—where I think we had a minimal cut of something like seconds in it. They cut something like 12 to 15 minutes out of it when it was played on American television. Three minutes were cut out of it on Canadian television.

Mr. Breithaupt: Of course, they had commercials.

Mr. Sims: That may be the reason, but I suspect that it had something to do with community standards, again, and complaints from the switchboard the next day.

Mr. G. Taylor: One brief question: How do you control and do you control, or is that taking away from artistic comment, a picture within a picture? There was a recent one with George C. Scott where his daughter ran away, Hardcore. How do you do that? The picture is on a subject and then within the picture they showed you film clippings. Do you control the picture within the picture as well?

Mr. Sims: Yes. We've found no problem with that. We all went in there in fear and trepidation, because again here's going to be another one, another medium, that sort of thing. It didn't come out that way. It was very well handled, we felt.

Hon. Mr. Drea: Pictures within a picture would have passed the normal scrutiny anyway.

Mr. Renwick: You're not going to get a picture within a picture unless it was done by a film machine that fits the category.

Mr. G. Taylor: Had you cut that you probably would have cut a major portion of that film.

Hon. Mr. Drea: What was on the picture, it was not a picture within a picture. They were in a motel room or an office or something and they showed a loop of film which gave the vocation of a female. The picture within the picture that was shown on the screen being filmed would have passed the scrutiny anyway.

Mr. Breithaupt: How is it you charge 50 cents for 100 feet in operation with respect to British films and $1 with respect to others; and no charges for Canadian films? Is there some reciprocation that occurs or is this just a tradition?

Hon. Mr. Drea: Policy. To stimulate the industry, even before there were any tax shelters or anything, the Canadian film was done free. With the British film, it was when we were trying to encourage British films in the '20s and '30s to come in here, vis-à-vis the Americans. It's just something that's there.

Mr. Breithaupt: Is there any reason to continue it particularly? The dollar amounts would not be large one way or the other.

Hon. Mr. Drea: No; but I think with the Canadian film we would be very averse to changing that.

Mr. Breithaupt: I quite agree with you on that.

Hon. Mr. Drea: Bear in mind also we have to look at not necessarily the commercial Canadian films only. On the British film, I think that culturally and historically it has been there. The dollar amount isn't significant. Nobody in the industry is opposed; they accept that.

Remember in the theatre world there are some preferences and some licensing arrangements; they don't raise anything.

Mr. Sims: We don't charge for films wholly produced in Canada.

Mr. Breithaupt: And a good thing too.

Item 2 agreed to.

On item 3, lotteries:

Mr. Ziemba: My question arises out of the report the minister kindly gave me this morning regarding the mysterious arson at the companies branch. I have a two-part request. You don't have to provide it now, but I would like to know whether records dealing with Pullman Holdings Limited between the years 1954 and 1972 were destroyed in that fire.

Hon. Mr. Drea: Do you mean do we still have records on microfilm or were they totally destroyed?

Mr. Ziemba: There were 4,000 files destroyed. Were the Pullman Holdings files amongst that group?

Hon. Mr. Drea: Yes; but I just want to make sure of what you want, because Mr. Howard said the other day that we have microfiches on them.

Mr. Ziemba: I know.

Hon. Mr. Drea: You're talking about physical books.

Mr. Ziemba: Yes, that is right.

Mr. Breithaupt: You presume that the person who may have lit the fire didn't know about the microfiche. Is that correct?

Mr. Ziemba: That is what I am presuming, yes.

The second part of my question is, I wouldn't want to tie up a civil servant for a week doing this, but would you give me permission to have one of our researchers go over the 4,000 microfilms and inspect what it is that was destroyed?

Hon. Mr. Drea: I don't see any objection to that. The only thing—don't we have a search fee or something? I think we could waive the search fee. I do it for newspapers.

Mr. Ziemba: Thank you.

Hon. Mr. Drea: If you could give us a couple of days. Bear in mind, we don't necessarily have those microfilms on the premises. They may be other places.

Mr. Ziemba: That's all right.

Hon. Mr. Drea: I'll tell you what I will do. Your first one should be relatively easy to get. Although, did you ask for all of his enterprises; did you have a specific one?

Mr. Ziemba: It is called Pullman Holdings Limited, in the years 1954 and 1972.

Hon. Mr. Drea: Oh, okay; that should be relatively easy. I'll arrange for Mr. Howard to contact you and we can set something up. The deputy points out that the microfilm is still there. Do you want to look at all the microfilm?

Mr. Ziemba: I want to know whether the Pullman files were destroyed. That's the question.

Hon. Mr. Drea: The written Pullman file?

Mr. Ziemba: The written Pullman files.

Hon. Mr. Drea: That's easy, no problem with that. But the other one?

Mr. Ziemba: The other one; the 4,000 files that were destroyed, I'd like to see the microfilm of those 4,000 files. Is that possible?

Mr. M. N. Davison: First he would want a list of the files that were destroyed.

Hon. Mr. Drea: I don't think there will be very much difficulty. Obviously Mr. Howard has a list of files that were burned; they wouldn't be able to give them to somebody over the counter upon request, but I will put him in touch with you on the second one as to how it is worked out.

Mr. Ziemba: Very good.

Hon. Mr. Drea: The first one—do you want it back through this committee or how do you want it?

Mr. Ziemba: It doesn't matter.

Hon. Mr. Drea: Okay.

Mr. Chairman: Before we adjourn—I see Mrs. Campbell starting to leave and I've got a procedural matter that I want to discuss in her presence.

Mr. Bradley: Did we carry the vote?

Mr. Chairman: No, we did not, but Mrs. Campbell was starting to leave so I wanted to deal with that. Shall item 3 carry?

Mr. Ziemba: Is that lotteries?

Mr. Chairman: That is lotteries.

Item 3 agreed to.

Vote 1504 agreed to.

Mr. Chairman: The item that I would like to deal with, because Mrs. Campbell was interested—she was part of the deliberations on Bill 19 and Mr. Breithaupt wasn't, so I wanted somebody there from the Liberal Party on this—is that we have an invitation from Mrs. Kitson to visit the school and I am suggesting the morning of November 7, which is a Wednesday. Does that meet with the approval of the committee?

Mrs. Campbell: As far as I am concerned; I will have to check out my schedule, but I will look at it. I don't think there should be an objection.

Mr. Chairman: Fine, thank you. So on the seventh, then, the committee will be visiting Park School.

Mrs. Campbell: It's not in my riding.

Mr. Chairman: I thought it was in your riding, but in any case it doesn't matter.

Mrs. Campbell: It is in St. David's.

The committee adjourned at 1:09 p.m.

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Ontario

J-9

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of Consumer and Commercial Relations



Third Session, 31st Parliament
Thursday, October 18, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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Hansard subscription price is $15.00 per session, from: Sessional Subscription Service, Printing Services Branch, Ministry of Government Services, 9th Floor, Ferguson Block, Parliament Buildings, Toronto M7A 1N3. Phone 965-2238.

Published by the Legislature of the Province of Ontario.

Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 3:34 p.m. in committee room 228.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Acting Chairman: I will recognize a quorum.

On vote 1505, property rights program; item 1, program administration:

Mr. Acting Chairman: Shall item 1 carry?

Mr. M. N. Davison: Mr. Chairman, we had decided—and I'm not sure if you were there at the time—that we would give over today to discussion of Condominium Ontario. My understanding was we would not call any of those votes until we at least concluded our discussion today and start now with the agreed upon study of Condominium Ontario. Is that also the clerk's recollection of the agreement?

Clerk of the Committee: We were going to discuss it, so I'm told.

Mr. M. N. Davison: I think it would be best, instead of trying to call the votes, if we do set over the day as we agreed at the time for this.

Mr. Acting Chairman: Is it agreed then that vote 1505 will be carried at the end of this sitting today?

Mr. M. N. Davison: Assuming we finish our study of Condominium Ontario.

Mr. Acting Chairman: We don't want to get back into each item.

Mr. M. N. Davison: If you will recall, Mr. Chairman, the agreement was it might even be possible to extend the discussion over into the next day because it dealt with, I believe, the registrar's program. I don't have the words in front of me.

Mrs. Campbell: Registrar general.

Mr. M. N. Davison: Registrar general, and it might be possible, if necessary, to carry it over. Certainly, if we conclude our work on Condominium Ontario, we can then deal with these votes today.

Mr. Acting Chairman: Condominium Ontario is the subject for the committee this afternoon. Mr. Minister, an opening statement?

Hon. Mr. Drea: None.

Mr. Acting Chairman: Mrs. Campbell?

Mr. Philip: Will the minister introduce his staff, please, and have them up front so we might question them?

Hon. Mr. Drea: Mr. Simpson. Do you want Mr. Batchelor up here?

Mr. Philip: Would Mr. Batchelor also come forward, since I think we have a number of questions for him.

Hon. Mr. Drea: Mr. Gordon Batchelor, who is the interim chairman of the board of Condominium Ontario.

Mr. Acting Chairman: Mrs. Campbell, would you like to lead off for the Liberal Party?

Mrs. Campbell: Mr. Chairman, I'm going to yield to the member for Etobicoke, since I think a large part of this is a matter of personal concern—concern in his riding, I'm sorry. I didn't mean to make it personal. I should like to have the opportunity to come in on supplementaries, if I may.

Mr. Acting Chairman: Thank you, Mrs. Campbell.

Mr. Philip, you have the floor.

Mr. Philip: Thank you, Mr. Chairman.

Mr. Batchelor, can you tell us if you have brought with you today some budgetary figures on how much money has been spent by Condo Ontario to date?

Mr. Batchelor: I don't have those figures with me, but I have the budget with me.

Mr. Philip: Can you supply us with that, please?

Mr. Batchelor: I believe I could get the figure. One of my staff is here. Do you mean the projected budget until the end of the year? It's roughly $550,000.

Mr. Philip: Can you tell us how much of that has been spent to date?

Mr. Batchelor: About $100,000.

Mr. Philip: Have you also been able to draft a constitution for Condo Ontario yet, a draft constitution?

Mr. Batchelor: We are, at the present time, drafting the structure of Condominium Ontario, and it will be number one on our agenda at the November meeting.

Mr. Philip: How many board of directors' meetings have you held since the Condo Ontario in its present evolving form came into being?

Mr. Batchelor: Six meetings.

Mr. Philip: Six meetings. They're held on a regular basis?

Mr. Batchelor: On a regular basis, every month. We had one extra meeting one month.

Hon. Mr. Drea: Mr. Philip, I should say there were about four or five general meetings prior to the board being put on an interim basis. You might call those preliminary organizational or whatever.

Mr. Philip: Mr. Batchelor, how did you first come in contact with Condominium Ontario?

Mr. Batchelor: I came in contact with Condominium Ontario when I was asked by the ministry whether I would take over as interim chairman.

Mr. Philip: As interim chairman. In other words, you were not elected by the interim board of directors.

Mr. Batchelor: No, I was not.

Mr. Philip: Was your appointment as interim chairman prior to the appointment of the board of directors, or can you answer that question?

Mr. Batchelor: The minister may correct me on this, but I'd say it was almost simultaneous—at the same time as the appointment of the board of directors.

Mr. Philip: So the board of directors had no say, or no input into your appointment as their chairman?

Hon. Mr. Drea: No, that's not correct, Mr. Philip.

Mr. Batchelor: The minister can answer that and it's quite true that is not correct.

Hon. Mr. Drea: I can be helpful in this.

The matter of getting an interim chairman was discussed with at least the condominium unit owners who were going on the board. I think there were seven at that time. I suppose the lawyer, Mr. Pacey, went on to fill the legal slot on the non-condominium unit owners part of the board. The need for an interim chairman was discussed at a meeting prior to this. If I recall correctly all of the people who became interim board members in the condominium unit owner category, plus some other people, who did not go on the board but were interested in it as condominium unit owners, plus the person who went into the interim board in the legal chair, or whatever you want to call it, were consulted prior to the request to Mr. Batchelor to fill the post on an interim basis.

Mr. Philip: What was the nature of that consultation? Did you discuss with them the characteristics of what kind of person would make a good chairman? Or did you come to them and say you had a person you would like to recommend or that you were thinking of appointing as interim chairman?

Hon. Mr. Drea: No, sir. Actually, if you want to put it in that perspective, I would suggest there were two meetings. There was one before that.

Bear in mind these were organizational meetings, basically attended by the Federation of Condominium Associations. There were a lot of things discussed at the first one, particularly how you went about the mechanics of setting up an interim board to provide for the election of a full board in the business sense.

Second, they discussed the qualifications for an interim chairman. The basic qualification agreed upon at the first meeting and when Mr. Batchelor's name was brought forward at the second meeting, was someone who could be of great technical and business assistance in the formation of a non-profit, non-share company. They agreed it should be someone who could get the interim board in a position where they could make the necessary bylaws and take the preliminary steps leading up to a chairman, elected or whatever, by the board.

The second meeting was a very long consultation—I think it went for three hours. At the second meeting it was also emphasized that if they did decide they liked Mr. Batchelor—and they did—one of the admonitions was that Mr. Batchelor would never be in a position to accept chairmanship of the elected board. Indeed, the time frames for Mr. Batchelor were purely organizational—they had to expire within three or four months. No matter how much they liked him, they had to make decisions by themselves at the time of the commencement of the regular board as to who would be their regular chairman. Mr. Batchelor simply would not be available.

Mr. Breithaupt: Could I ask a supplementary question, of the minister? I regret my delay because of commitments in the House. Could you just review briefly—and you may have done that at the start—the present make-up of the committee? You mentioned the seven persons who are condominium owner representatives and you mentioned Mr. Pacey—

Hon. Mr. Drea: No, there are more than that now.

Mr. Batchelor: There are eight condominium owners.

Hon. Mr. Drea: There were seven then.

Mr. Breithaupt: There were seven at that point, yes.

Hon. Mr. Drea: There wasn't a board at that time. There wasn't even an interim board. It was purely organizational—pre-organizational.

Mr. Breithaupt: And what is the framework now? Could you just outline that so we know the areas in which there are appointments, and their responsibilities?

Hon. Mr. Drea: Right now, there are eight condominium unit—

Mr. Batchelor: Owner representatives.

Hon. Mr. Drea: Maybe Mr. Batchelor should answer.

Mr. Batchelor: There are eight individual condominium owner seats on the board. There are six industry reps on the board. That makes 14. I am the chairman.

I would like also to indicate I had no great desire to remain in this position because I was only there in an organizational capacity. Two meetings ago I expressed some concern to the board that I would like to get out of this as quickly as possible. There was a motion made by the board, seconded by the appropriate individual, and the entire board unanimously asked me to carry on. I said I would do so provided the responsibilities and the situation as I saw it would not be too onerous and the demands upon my time would not preclude me from carrying out other things in my life I'm involved in.

[3:45]

Mr. Breithaupt: Could I just ask then, Mr. Batchelor, of the six industry representatives would you give us a breakdown of the categories of which they are representative, then we will get the setting in which we are operating at the present time?

Mr. Batchelor: We have one individual representing lenders and we have one individual representing practising condominium lawyers. We have one chartered accountant. We have one builders' representative; we have one representing insurers; and one individual representing the ministry.

Hon. Mr. Drea: Mr. Breithaupt, always, no matter what the composition of the board is with the seats unfilled or something, there has to be one more condominium unit owner than the combined industry ones.

Mr. Breithaupt: Yes. I was involved during those sessions and I recall that, Mr. Minister.

Mrs. Campbell: Are the persons representing the condominium owners the same as the original members? Are they all the same today as they were originally?

Mr. Batchelor: Yes, Mrs. Campbell, with the exception that we have two vacancies at the present time.

Mr. Philip: Mr. Batchelor, can you give us your background that was of such great significance to the minister he would appoint you to this important position?

Mr. Batchelor: When you put it that way you make it sound a little bit sarcastic as far as I am concerned. However, my great background, which Mrs. Campbell knows, is 30 years with the city of Toronto, about 16 years of which I was deputy city clerk and four years city clerk. I have operated in an extremely efficient manner the Residential Premises Rent Review Board and have brought down the cost of that board considerably. This can be proven by checking the records.

Mr. Philip: Thank you. I thought this was the same Batchelor we'd been acquainted with on the residential—

Mr. Batchelor: I had one other thing to mention: I'm a past president of the Institute of Public Administration of Canada.

Mr. Philip: Fine. I wonder if you have seen, by any chance, an editorial in the Etobicoke Gazette. I think it expresses the way at least some of the people in my riding feel about you and your organization, Condominium Ontario. I'd like to read it into the record because some of the people from other areas may not be aware of the kinds of comments the press is making about Condo Ontario.

The Etobicoke Gazette is a weekly paper. It is published, I believe, by Mr. Bassett, who is hardly a very leftwing radical kind of person.

The headline is: "Condominium Ontario Already Creating Distrust." The editorial goes on to say: "Condominium Ontario is set up by the provincial government to help out individual condominium owners and corporations attain effective building management and to serve as an independent body to hear complaints.

"The organization was to mediate disputes and to serve as the 'glue' needed by condominium owners to get what they feel they rightfully deserve in the context of a municipality. The aims are admirable, but given the evidence to date Condominium Ontario is little more than a self-serving buffer used to keep angry condominium corporations off

consumer and commercial relations minister Frank Drea's back.

"In the three months the board of directors have been sitting they have not hammered out a constitution, they have not set up the promised tribunal to mediate disputes between corporations and builders. What they have done is gone a long way to create distrust among condominium corporations about the role of Condominium Ontario and the effectiveness of the body which will have to help the beleaguered owners.

"By way of example, we cite the case of Terry Littlefield, who is president of the Etobicoke Condominium Association and has been a pioneer warrior for the rights of corporations and individual owners. He is appointed to the body as a director and everyone knew he was opposed to the collection of a per-unit levy to fund Condominium Ontario.

"Littlefield was the centre of a controversy when 14 directors were asked to vote on his expulsion. The ballots were to be signed. Thus allegiance to his position would be clearly indicated by anyone who voted in his favour. Rather than force the other directors into this untenable situation he resigned.

"The charges against him were simple. He is accused of acting in a manner considered prejudicial to the best interests of Condominium Ontario. What he supposedly did was advise the North York Condominium Association that the ECA was going to fight the per-unit levy to fund the organization on constitutional grounds.

"We take exception to any body, regardless of what sets it up, without a constitution, dictating to its grassroots members what they are to say and what they cannot say. We are shocked at the concept of signed ballots, even if they fall within the guidelines of corporate law. Condominium Ontario is supposed to be a representative body of condominium owners —a friend, an ally, a place to turn to for help. But it is beginning to look as if it is another bureaucratic trap which, thinly disguised, will be little more than a public relations organization for the present and future ministers of consumer and commercial relations.

"Condominium owners have been fooled again, only this time we do not think they will take it lying down. We urge the Etobicoke condominium corporations to join the Etobicoke Condominium Association and fight the per-unit levy. In our books this added burden will mean not double taxation but now triple taxation."

I read that out simply to give some overall context to some of the problems I am concerned about and some of the questions I want to ask you.

I am sure you are familiar with an article appearing in The Condominium newspaper. The article I refer to is dated June 5, 1979, and it makes a number of challenges concerning Condominium Ontario. I ask you, from your experience since you've outlined all of the background you've had as a clerk and therefore have considerable experience with politicians, if the average person in a political role found a newspaper that misrepresented or in some way distorted his position, would his position not be to write a letter to the editor so that the position could be cleared?

Mr. Batchelor: You may see it that way, Mr. Philip. Our board did not see it that way and I am the chairman of the board. I am not God. I do not tell the board what to do. I was hired mainly for the purpose of setting up the administrative role of Condominium Ontario, which I consider I have done efficiently and effectively.

About two evenings ago the board instructed me to reply to The Condominium through an information bulletin. It was the only way we could reply to the condominium community and The Condominium, because entering into a debate with a publication that would not even tell us how many people they distributed that publication to, or could not tell us, was not my idea of how you should deal with a publication of that type. So we responded. If you have a copy of our first information bulletin—I think you have one there—we dealt with every item in The Condominium article in detail.

Mr. M. N. Davison: Is that this document?

Mr. Batchelor: Yes, that's right.

Mr. M. N. Davison: This one called Condominium Ontario Information?

Mr. Philip: Can you tell us who this was sent to?

Mr. Batchelor: It was sent to all the condominium corporations we had on our lists at that time. It was to let the condominium corporations know, because there would be inquiries in our office about the article you refer to in The Condominium. We responded to it in accordance with the directions of my board. As far as I am concerned, we have answered every one of those questions. In fact we have destroyed the fiction in the article which you are referring to.

Mr. Philip: If this is fiction, Mr. Batchelor, why didn't you sue?

Mr. Batchelor: I am not in the position to sue and my board did not want to get into a position to sue, but when certain people contacted us about the particular article we

answered it and we answered it with the truth.

Mr. Breithaupt: Do you have copies of that document here at the moment? You have one. Perhaps the clerk might wish to make copies for those members who don't have one.

Mr. Philip: Yes, I should have done that. I apologize.

Hon. Mr. Drea: Perhaps you might read it into the record.

Mr. Batchelor: I'll read it into the record if you like. There is only one thing which I do not like and—

Mr. Philip: We will deal with each item on that and we can read those items into the record, so that cumulatively perhaps we can have it all, if that is okay.

Hon. Mr. Drea: Whichever is easier.

Mr. Batchelor: I personally have always been a great supporter of this, and I imagine that you would be too, Mr. Philip, that individuals' names and personnel are not generally included in public discussion. Positions may be, policies may be, but as far as I am concerned when it came to personnel when I was at city hall—and Mrs. Campbell can correct me if I am wrong—those matters were not matters of public debate.

I think it is unfortunate when I give out this copy that there are names of people involved in here. I would understand that you and your party would not support the position of displaying names generally to the public where it involves individuals who are quite innocent of anything except the fact that they have accepted employment with Condominium Ontario.

Mr. Philip: Perhaps, Mr. Batchelor, your philosophy and my philosophy may differ. I happen to think that when you are spending taxpayers' money that all information is public information and the taxpayers have the right to know what is going on.

Mr. Batchelor: All information, Mr. Philip, is—Mr. Chairman, I should direct this to you, but I must respond. All information is public information; I never made any reference to the fact that it should not be public information. But generally speaking, I am talking about personnel matters involving employees generally. If you hire a girl as a secretary generally it doesn't appear in the press that you are paying her $13,500 a year and that you hired her under some circumstances that might be interpreted as not being proper.

Mr. Philip: No, but what would normally appear in the press, if you have a high and important position or if you have a position where you are spending taxpayers' money, is that initially before you hire them you advertise the position in the press and have at least a job description and some kind of salary attached to that job description. I suggest to you sir, then that if you had acted in that proper manner you wouldn't have these people unfortunately dragged through the press.

Hon. Mr. Drea: Mr. Philip, if I could speak for a moment, please, because those documents are obviously public. The names were used in the press article, but I suggest to you that while Condominium Ontario loosely falls this fiscal year alone within the definition that most people would accept as public, that is only because for the first year the minister agreed to provide all of the funds. It is designed to be not public, in a sense of a crown corporation or a branch or an agency or a commission.

It was to be struck, pursuant to the legislation, as self-governing within the concept of other self-governing organizations and as such, Mr. Philip, during the interim period it has as much leeway as possible. Granted, there obviously has to be an accounting of public funds. I have to get those funds through management board and so forth, okay, on that level, but on the advertising for help, now that there is even an interim board and certainly when there is an elected board, those things are not within the ordinary scope of public service requirements or what have you. I just wanted to make that clear.

Mr. Philip: I perfectly accept that. I have read the act many times. I was part of the debate on the act. One would think, however, that the minister, considering the fact that I and members of my party and, indeed, members of certain condominium associations appearing before the justice committee on the bill had suggested to you—and it had been suggested in the House—that this organization of Condominium Ontario might well be seen as a front for the government as a buffer zone, that every possible action would have been taken to assure that everything was not only done properly and impartially, but appeared to be done properly and impartially and this has not been done.

Hon. Mr. Drea: That is quite true, Mr. Philip, but I quite disagree with your last observation—

Mr. Batchelor: Mr. Chairman, I take exception to that.

[4:00]

Hon. Mr. Drea: Just a moment, Mr. Batchelor, please. Could I reply to that? He was talking to the minister.

Mr. Philip, I disagree with that for one reason. As the minister I didn't even want to go around to the various condominium association public meetings on the basis that really these things should be done by the people involved. I didn't want in any way, shape or form to have an appearance that this was a government body, one of the minister.

Mr. Philip, I can tell you that when every one of the directors—every one, past and present, including the two who are no longer there—had a meeting or something I gave them that explanation. They asked me to attend on the grounds that they wanted an explanation and so on and so forth. They did that across the province. But I say to you in terms of appearance, I bent over backwards myself—other than, I suppose, my whole role in the beginning was getting them into a room, we were providing the seed money and so forth.

We went through some of the technicalities. We did supply government lawyers and so forth for the incorporation, which I considered to be perfectly normal. We did exercise some speed-up, if you want to call it that. Not much, I suppose, because incorporations of non-share capital companies are pretty quick and so on and so forth. That is the limit of the involvement.

If you are going to have a self-regulatory body, within the normal appeal provisions naturally, then I don't think it behooves the minister to be involved at all. The only time the minister should be involved is when things are brought to the minister's attention suggesting some form of impropriety or so forth. I will tell you that newspaper article was brought to my attention. I investigated it quite thoroughly—there were very substantial charges in there—very thoroughly until it was to my satisfaction, because that is public money there.

Mr. Philip: Half a million dollars.

Hon. Mr. Drea: Yes, Mr. Philip, more than half a million dollars.

Mr. Philip: Half a million dollars at least in the present budget.

Hon. Mr. Drea: Mr. Philip, I obtain it, it's public money, there is no question about that. I investigated that matter quite thoroughly, to my satisfaction, and there was nothing of substance there, to my satisfaction. I suppose that's a double rule again, to my satisfaction, which is that of the public service.

Mr. Philip: One would have thought that if it was their organization, or our organization, since I'm a condominium owner myself, one might have asked the board of directors to appoint their first chairman, but in any case I'll leave that.

Hon. Mr. Drea: Mr. Philip, let me just make it perfectly clear. The prime qualification for this job, with all due respect to Mr. Batchelor's public administration, what was needed in terms of job qualification for the very short, very brief interim period, was someone who could conduct a board of directors' meeting. Somebody who could go through and knew all the mechanics of corporation and business law et cetera, et cetera, et cetera. That was the prime qualification.

I pointed out at one meeting what the qualifications would be. Also, we spent a great deal of time saying what just an interim board would be. One of the things that I think you and I forget sometimes is that it is very difficult for people who are starting from scratch. Yes, you have a meeting but then you say, "Look, you've got to do all of these things." Most people come into an organization that at least has a shell or so forth. I went through all of that and laid down what I thought the qualifications would be that would be helpful to them.

Mr. Batchelor's name was brought up, his qualifications were brought up and I will say to you, Mr. Philip, in the meeting that I was at, the people thought that was an excellent idea and in effect—even though I was paying for it, even though I was there—these people did accept Mr. Batchelor on the prime grounds—

Mr. M. N. Davison: Who brought up Mr. Batchelor's name?

Hon. Mr. Drea: I suggested Mr. Batchelor's name.

Mr. M. N. Davison: Mr. Minister, Mr. Philip's question was whether or not the chairman was appointed by the minister. The answer is yes.

Hon. Mr. Drea: No, no, but I was talking —of course it is, Mr. Davison. What I was talking about is there was not only full consultation, but these people said before I appointed Mr. Batchelor—of course I'm the only one who could appoint Mr. Batchelor.

Mr. M. N. Davison: Who brought up Mr. Batchelor's name? You have answered Mr. Philip's question.

Mr. Philip: I find it very interesting that, knowing the background of some of the people who are on the board of directors of Con-

dominium Ontario, some of them are businessmen, many of them have quite an experience in the condominium movement, with that kind of background the minister wouldn't simply content himself, if it is the condominium owners' own organization as he loves to say, to simply describe and set some job descriptions that they agreed with as to what they were looking for in the chairman and say, "You people, with all of your contacts in the business community, with all of your contacts in the condominium world, should be able to find somebody who meets that kind of description."

Hon. Mr. Drea: Mr. Philip, in fairness, that was put in just about those many words to them. You have to remember one of the difficulties at the time was that they didn't even have any idea of who they would look for to fill the non-condominium unit-owner positions, the insurance person and so on, the practising lawyer. They had no definite ideas of whom they would select.

For instance, and I think I recall this correctly, in terms of insurance it was a very difficult task. They wanted to get going. They suggested to me that perhaps the government would do the appointment. I said, "No, but certainly please consult with the superintendent of insurance because he knows or can draw upon the insurance industry to let you have a number of people who are specialists in this."

The other problem with business people was they were terribly concerned since there was no pay. Could they get somebody really representative? They wanted that, but then what do they do about the other end? We suggested that it's quite common in the business world that the chartered accountants association provides these people for specialized things and so on. At the time that was done there weren't these people there. Not that they didn't know of some people who were in that specialty, but how you went about attracting an insurance person or a chartered accountant or a lawyer—a lawyer was relatively easy, because they knew of them—but that's what they faced at the time.

Mr. Philip: I would like to go through the press release or whatever it is that you call it, news release or information sheet you sent to all the condominiums.

Mr. Breithaupt: Where were those copies distributed?

Mr. Swart: How many of these were sent out?

Mr. Batchelor: Mr. Armstrong, can you tell me how many went out altogether?

Mr. Armstrong: Approximately 1,000.

Mr. Philip: Approximately 1,000, and was a copy of this sent to The Condominium?

Mr. Batchelor: I would assume a copy was sent to The Condominium. I will have to ask Mr. Armstrong again. Was a copy sent to the Condominium?

Mr. Acting Chairman: If Mr. Armstrong is going to give evidence, could you come forward, Mr. Armstrong, please, to the table?

Mr. Batchelor: Mr. Armstrong is a director of public relations of Condominium Ontario.

Mr. Philip: You are the author of this document, Mr. Armstrong? Please speak into the microphone. Sorry, I am forgetting I am not chairman.

Okay, fine then. I will question both Mr. Batchelor and Mr. Armstrong. I would like to go over some of the points you make in that, because I find them absolutely fascinating. It seems to me that this document confirms everything that The Condominium newspaper said. We will go through them point by point.

The first section says: "It was stated that reference to the $40,000 per year general manager's salary was deleted from the minutes of Condominium Ontario. This is not true." Did you read this document before it went out, Mr. Batchelor?

Mr. Batchelor: I read it thoroughly.

Mr. Philip: So therefore you are in perfect agreement with everything that is here?

Mr. Batchelor: I guess so.

Mr. Philip: Fine. You say it wasn't true that the reference to the $40,000 a year general manager's salary was deleted from the minutes. Is it not true that there was a discussion at the June 5 meeting of the board of directors concerning the $40,000 a year position?

Mr. Batchelor: It is true there was a discussion.

Mr. Philip: Would you grab a microphone please?

Mr. Batchelor: It is true there was a discussion, Mr. Philip.

Mr. Philip: Is it not also true that at that meeting, prior to moving on in the agenda, you in fact turned to the secretary or the clerk and said, "This matter should not be included in the minutes," or words to that effect?

Mr. Batchelor: Not even close. False, Mr. Philip.

Mr. Philip: What did you say?

Mr. Batchelor: I didn't say anything. I said the board wanted the contract incorporated

in the minutes and I stated I would append it to the minutes as part of the minutes, and that was what was done.

Mr. Philip: The contract with the $40,000 was appended to the minutes?

Mr. Batchelor: Correct.

Mr. Philip: Your recollection and the recollection of one of the board members—whom I happen to have on tape—is quite different.

Mr. Batchelor: You can play that particular board member's recording and I may be able to give you some added information that you would like to record also.

Mr. Philip: Fine. What I would rather do is simply have it transcribed and I will give it to members of the committee.

Would you table a copy of the minutes now then? You no doubt have your minutes with you.

Mr. Batchelor: The minutes are not for public consumption, and this is the board's decision, so please, Mr. Philip, don't look at me as if it is my decision. The board has determined that it would not make its minutes public.

Mr. M. N. Davison: To a committee of the Ontario Legislature?

Mr. Batchelor: I have not discussed the matter with my board and I cannot hand you a copy of the minutes.

Hon. Mr. Drea: You are asking somebody from the outside. Mr. Philip, if you want those minutes tabled, if you would ask me I will get you the minutes.

Mr. Philip: Would you, Mr. Minister, table the minutes of June 5 meeting of the board of directors of Condo Ontario, with any appendix that may be with it?

Hon. Mr. Drea: Yes, I just said I would if you would ask.

Mr. Philip: Fine. I just asked you.

Hon. Mr. Drea: Okay, it is yes—and bear in mind now that you have asked me to countermand what is their own decision, but in the public interest I will do it.

Mr. Philip: Mr. Batchelor, I wonder if we can discuss how the Condo Ontario came to the conclusion that its minutes would not be made public; minutes of a body spending public money, minutes of a body that is supposed to be our organization, the condominium owners' organization—not even made public to the condominium owners through their publication, the only publication that deals with condominium issues to any great intensive extent, the condominium newspaper? How did you come to that conclusion? I would be interested in hearing your version of how your directors came to that conclusion.

Mr. Batchelor: They came to the conclusion that they felt that the minutes of the board should not be distributed for public consumption and that each member on the board would be provided with a copy of the minutes and would have discretionary power to use those minutes any way he or she saw fit. It was suggested, but it was not directed, that a resume could be made by the member to distribute to the particular association he was representing.

Mr. Armstrong, who was our director of public relations, was instructed at the end of each meeting to make a resumé of the things that should be distributed for a press release, which covered the items that were discussed. He would then present that to the board and the board would say to Mr. Armstrong, "You release these following items as a press release." This was not my suggestion, it was a decision of the board.

Mr. Philip: Mr. Batchelor, you have raised a couple of things and I want to go back just a minute. My understanding is that the $40,000 in the contract was appended to the minutes.

Mr. Batchelor: Yes.

Mr. Philip: It was a decision by the board to add it on after—

Mr. Batchelor: At that time.

Mr. Philip: At that time it was a decision of the board and, therefore, there will be something in the minutes of that board meeting of June 5 that will indicate a decision to add the $40,000 a year general manager's salary contract to the minutes.

Mr. Batchelor: Yes, and while it is not recorded by name, I have a good memory, Mr. Philip, and it was Mr. Littlefield who was of that opinion.

[4:15]

Mr. Philip: Mr. Littlefield understands the democratic process and we have to compliment him on it.

It was appended. There are notations somewhere in those minutes that it was decided by the board of directors to append the contract to the minutes. Is that correct? We'll find some notation in the minutes?

Mr. Batchelor: Yes, you will.

Mr. Philip: Why would you have decided not to include in the minutes the discussion on the hiring and on the salary of the $40,000 a year job of chief manager, your chief executive officer?

Mr. Batchelor: Mr. Philip, there was discussion in the minutes. But we have no one on our staff and we have no facility for reporting matters verbatim. Rather than take pieces of information and put them in the minutes, we keep the minutes to the subject matter in the main, and the decision, unless someone specifically requests that their remarks be recorded. Then we take it down word for word.

Mr. Philip: You mention it was the decision of the board that while the minutes of the board of directors were kept confidential, private—whatever word you used—any particular member of the board could use them in any way at his own discretion?

Mr. Batchelor: That is correct.

Mr. Philip: Any member of the board of directors could in fact, if he wanted to, simply send them out The Condominium or the newspapers?

Mr. Batchelor: Yes, Mr. Philip. In fact, the very publication you're talking about, The Condominium, quoted parts of our minutes verbatim, so someone must have given that particular section of the minutes to the publication. I questioned each member of my board and each member of my board said they did not do it.

Mr. M. N. Davison: Supplementary on this exact point: In The Condominium newspaper article, the following sentence is quoted from a source allegedly close to Condominium Ontario, "Mr. Downey's salary was left out of the minutes so the condominium associations would not find out how much money he was getting."

Ignoring the motive that is suggested, is that statement true or untrue?

Mr. Batchelor: It's not true.

Mr. M. N. Davison: Mr. Downey's salary was left out of the minutes?

Mr. Batchelor: Yes. You can't leave something out of the minutes that's an appendix to the minutes. It becomes part of the minutes. If you have a recording of what's going on here and this document is filed, I assume it becomes part of the minutes or record of this particular meeting.

Mr. M. N. Davison: The statement is untrue?

Mr. Batchelor: Yes.

Mr. Philip: I find this very confusing. First the board decides they're not going to make the minutes public; then you say the board decides it's okay if any member makes them public. Then you say—and you just said—you questioned each member of the board as to who took those minutes that, by a decision of the board, are allowed to be used as seen fit and released them to the newspaper. Why would you question them if this is part of the policy?

I can't understand why you would have a policy in the first place that says you're going to hide the minutes and then it says it's okay if any member of the board uses them as he sees fit. That's contradictory policy. But if the board wants to do that, that's a decision they can make. They could be the North York school board for all I care.

Why would you question these people? They've done what you said they're allowed to do.

Mr. Batchelor: I was asked by my board to question people. I don't go around doing things without consulting the people I work with. I was asked by the board to inquire. You put words I did not say. I said the minutes were distributed to the members of the board and they, at their discretion, could use them as they saw fit. But the suggestion was made by the board that possibly they could make a summary of the minutes for the particular association they belonged to and there was a valid reason why the board felt that way. It will not be recorded in the minutes, but the valid reason was they did not feel that individual names should be publicized.

For example, if we had 12 applicants for a job we would discuss the names of 12 people and those people's names could be recorded in the minutes. It might have jeopardized the position they held if their names appeared in a publication as having applied to another company without their present employer's knowledge. This is one of the valid reasons the board did not want to have this happen.

Mr. Philip: But surely, sir, you have experience as a clerk of city council; you know how councils operate. When they are dealing with matters involving people's names, they go in camera and simply record their decision at a later date. They don't hide all their decisions; they make public all of the information and all of the decisions in the minutes. Councils are open to the press. They only go into in-camera sessions in extraordinary cases, such as, perhaps, the one you have just mentioned.

Why would you recommend such a thing?

Mr. Batchelor: Mr. Philip, I did not recommend any such thing. You keep saying, "You, you, you" all the time, Mr. Philip. I was asked by the minister to take over an organization that was being born. I volun-

teered to take on this organization—at the present time I feel somewhat concerned that I did, when I am sitting here being cross-examined by you—because I considered it a public service. I have 30 years of distinguished public service with the city of Toronto. I don't think anyone here has been critical of the service I have rendered to the rent review board. When the minister asked me and told me it would be for an interim period, I said I would take it on to help out the ministry and to help out the members of this Legislature.

That's why I did it. And I did not say to the board, "You do this." You must remember I tried to guide the board; I tried to bring the board along in procedures and all the rest. I drafted rules of procedure based on parliamentary rules. I have done all of these things myself, Mr. Philip, in order to try to bring the board to a point of proper order and conduct.

You can't take a group of people who have never met before and in two or three meetings have it all jell into a legislative body like we have had here for so many years. I don't like the constant reference to me as "you," Mr. Chairman. I am chairman of the board and I have done my job to the best of my ability.

Mr. Philip: Mr. Batchelor, I have worked with a number of clerks as chairman of the justice committee and I am sure there isn't a clerk in this House who wouldn't understand that "you" is a collective word, it's a plural word. When I refer to "you," I am of course, referring to the board. I assume you as a clerk would have this experience and would understand that distinction.

Hon. Mr. Drea: I took that version from you, Mr. Philip.

Mr. Philip: But you haven't worked as a clerk.

Hon. Mr. Drea: No, I took that from you. I took your full answer from you. I am not criticizing, I am just saying I took that because I am experienced in the way things are done. I want to assure Mr. Batchelor that the use of the word "you" is not here aimed at "you" as an individual; it is aimed collectively.

Mind you, I think it would be accurate to say at all times "the board," but that's a reply.

Mr. Batchelor: I don't mind, Mr. Chairman, after your explanation, Mr. Philip. I have understood the word "you" over the years as you have. But it seemed to be coming across to me as "you" in a slightly different form. I apologize, Mr. Philip, if I misinterpreted your intention.

Mr. Philip: When I am using "you" to refer to you, I will use "you" in the singular so you will know exactly who I am talking about. There will be a number of questions to you in the singular as I go along.

I wonder if we can go further down in the release by your public relations director, Mr. Armstrong. It deals with the matter of a number of positions that were offered but were not advertised.

Mr. Batchelor: Would you please clarify the number that were not advertised?

Mr. Philip: The ones that are referred to here. You suggested it was unfortunate that names were being used. You can read the names and count them up.

Mr. Batchelor: It seems like a great number. I think we should clarify for the record how many of them were advertised and how many weren't.

Mr. Philip: All right. For the record, then, let's read it in:

"In the same story, reference is made to the 'unadvertised position of comptroller,' which is held by Jutta Maloney. Further reference is made to the fact Mrs. Maloney lives in the same condominium as Andrew Wallace, an executive director of the Federation of Condominium Associations. The story also pointed out that Mrs. Maloney is not a chartered accountant.

"Interviews for the position of comptroller were conducted by a highly reputable executive search firm. Mrs. Maloney was determined to be the best qualified for the position, a position which does not require an individual to have the qualifications . . ." et cetera.

Then it goes on: "'Another unadvertised position' was mentioned in the story, a position held by Sharon McGee. As stated in the story, Miss McGee was formerly employed as a law clerk by the firm of Pacey and Deacon."

Then further on it says, ". . . there is nothing in Ontario law that stipulates positions with Condominium Ontario must be advertised." Further down it refers to another position.

". . . applications submitted by Mr. Hugh Jones and Miss Stephanie Thomson, at the time both directors of Condominium Ontario." It goes on to talk about a chap who was hired at $20 an hour.

Those are the unadvertised position we are talking about.

Is it not true that the allegation in The Condominimum is that these positions were unadvertised? That is the chief accusation.

Mr. Batchelor: The chief accusation, that they were unadvertised, does not indicate the fact there were a number of applicants.

Mr. Philip: That was not my question. Would you answer my question? Is it not your understanding that the chief accusation in The Condominium is that a number of positions—the ones I just mentioned—

Mr. Batchelor: Two.

Mr. Philip: Two? Maybe you count differently. There's Jutta Maloney. Another unadvertised position was one held by Sharon McGee. You had the law student, the one who was hired at $20 an hour. You have Mr. Jones or Miss Thomson, who had been employed—

Mr. Breithaupt No, no, that's three.

Mr. Philip: Okay, so we've got three.

Mr. Batchelor: I can answer to those for you. For the first one, as with any organization, the ministry received a number of applications—

Mr. Philip: That wasn't my question. My question was, and I'll repeat it for the third time, is the chief thrust of the Condominium article not that these three positions were offered without being publicly advertised? Is that not the thrust of the article?

Mr. Batchelor: I don't see it that way, Mr. Philip; I can't agree with you.

Mr. Philip: The Condominium newspaper clearly says they were not advertised. Do you agree with that?

Mr. Batchelor: The Condominium newspaper, as you say, clearly indicates they were not advertised. I have said, Mr. Philip, that I do not agree. I am not going to get into a lengthy explanation.

Mr. Philip: They were advertised?

Mr. Batchelor: I said I do not agree with that. To explain that at great length, as to why the situation proceeded as it did, was in the best interest of Condominium Ontario and the expediting of the very things you referred to earlier, what Condominium Ontario was not doing and that was to try to get Condominium Ontario off the ground.

We didn't take a person who just walked in off the street; we didn't take a particular person referred to us by any member of this Legislature; we didn't take anyone who was not considered to be in order. When two members of the board applied, I said that there was only one way I was going to deal with that and that was to get a management search firm to interview these people to see who they are, because I was not going to adjudicate in that matter. I think I proceeded properly.

Hon. Mr. Drea: Mr. Philip, that paper is still a little mad at me, because they put out a headline saying I should hire Darwin Kealey, which I refused to do. There have been all kinds of suggestions by all kinds of publications on these positions, sometimes in big type, sometimes in small.

Mr. Philip: Darwin Kealey did conduct what I thought was a fairly impartial set of hearings, so it might not have been that bad an idea.

Mr. M. N. Davison: Mr. Chairman, I have a supplementary. These people are being paid, and will be paid, out of public funds, correct?

Mr. Batchelor: That's correct, Mr. Davison.

Mr. M. N. Davison: These positions were not advertised in the normal public way. Is that correct?

Mr. Batchelor: That's right; they were not advertised in the normal public way.

Mr. M. N. Davison: Do you think it's appropriate that in such a case public funds should be expended for positions of which the public has no knowledge?

Mr. Batchelor: There are times when you have to get an organization going to have some thrust. We had applicants for a job, many of whom were very qualified. I did not ask for those applications. They were brought to my attention.

Two of my board members also wanted to apply for the position. At that particular point in time when I got those applications, rather than put an advertisement in the paper and use public funds when I felt with my background and experience there were a number of qualified individuals in that group, I thought I would then turn those over to a search firm to do something that would take me completely out of the picture as adjudicating on whether they were qualified and competent to do the job.

Mr. M. N. Davison: Does that the mean the answer to my question is that do you think it's correct?

Mr. Batchelor: I do think what is correct?

Mr. M. N. Davison: Even when public funds are being expended to hire these people and pay their salaries that the positions should not be advertised in the public media?

Hon. Mr. Drea: Mr. Davison, this happens with public money all the time.

Mr. Batchelor: No, I do not. In everything since we got ourselves more or less going on this particular condominium operation—and Mr. Philip indicates that he's a condominium

owner—I have been trying to do my best for him and all other condominium owners to get this organization going. Since then I have advertised the positions that are what I call permanent positions.

In the third position to which Mr. Philip makes reference is an individual who was engaged to assist us in the gathering of the names of corporations across Ontario. It's not as easy as it may seem, but we now have 1,000 corporations with all their officers listed. We know there are 1,439 corporations as of this day in Ontario. We expect to have all those corporations and their officers listed in our office by the end of November. I think we've done a damn good job. It bothers me somewhat to think that I'm being questioned as if I have not done something in your best interest or the best interest of the taxpayers of this province.

Mr. M. N. Davison: The taxpayers didn't know what you were doing because you didn't advertise the positions.

Hon. Mr. Drea: Mr. Davison, could I just go back—hopefully I'm not going to interrupt again—to this definition of public money? I provided him with the money. It is public. But there are all kinds of instances in and around this building—

Mr. M. N. Davison: We're not talking about the civil service.

Hon. Mr. Drea: No, I'm not talking about the civil service—directly the opposite. There are all kinds of public accounts expended by elected people for staff and so forth. Those jobs are never advertised by virtue of it purely being public money. I'm not going to quarrel with your interpretations one way or the other.

Mr. M. N. Davison: What kind of jobs are you talking about?

Hon. Mr. Drea: Secretarial positions to members, for instance, may or may not be advertised. Yet it is public money that pays them.

Mr. Philip: I can tell you that all positions with our caucus are advertised. We think it's in the interest of the public to do that.

The point I am making, which I think you're going to have to agree with, is that there is nothing in this particular publication that you have turned out that in any way negates the chief charge of The Condominium newspaper that none of the chief jobs—right down to the $20-an-hour clerk or whatever it is that the fellow does to telephone around the province—was advertised. Is that correct? You in no way negate that in this paper.

Mr. Batchelor: Everything in this paper that each member has received a copy of is the truth. I have not said whether the question negates or does not negate what's in The Condominium. It answers, in my opinion and my board's opinion, the charges in The Condominium.

I can only say that, Mr. Philip. I can't go on debating with you whether it does or it doesn't. In my opinion, it does.

Mr. Philip: I don't see the point in debating it either. I just make the point that the chief charge was that the jobs weren't advertised. Your own release, in fact, admits that they weren't advertised.

Mr. M. N. Davison: The justification is that Ontario law doesn't stipulate that you have to advertise.

Mr. Batchelor: That is not the justification, Mr. Davison.

Mr. M. N. Davison: It certainly is.

Ms. Gigantes: That's what it says.

Mr. M. N. Davison: It should be pointed out that there is nothing in Ontario law that stipulates that the positions of Condominium Ontario must be advertised—black and white, front page, last paragraph.

Ms. Gigantes: Could I ask a supplementary on this because I'm curious about the minister's remarks?

Mr. Acting Chairman: Yes.

Ms. Gigantes: Do your comments mean you consider the staff of Condominium Ontario to be your personal staff?

Hon. Mr. Drea: Oh, no, no, no. I don't know whether you knew to what great lengths—

Ms. Gigantes: Well, you attempted to make a link between parliamentary persons, staff—

Hon. Mr. Drea: No, I did not. What I was trying to get at, and I thought I had it at the beginning, was the question of "public money," and that was all.

Ms. Gigantes: Yes, but public money expended for personal staff of members of the Legislature is somewhat different from public money expended through such an organization as Condominium Ontario. This has nothing to do with the personal staff of you or other members of this Legislature, even though Mr. Philip is a condominium owner.

Hon. Mr. Drea: No, I wasn't suggesting that at all and I regret that you drew that inference.

What I was attempting to point out is that the mere use of public money to pay a salary in itself does not make it mandatory for

"advertising" in that sense of the word. That is all I was saying.

This is not my personal staff. I don't even know these people; I have never met them in my life and have nothing to do with them —had nothing to do with any part of it. I don't even know, maybe a letter came across my desk when it first started asking whether jobs were available. Perhaps maybe I scanned it. It got sent down there. It had nothing to do with me or anybody in the ministry at all. It was to do entirely with them.

Mr. Philip: I wonder, Mr. Batchelor, if before you hired the staff, before the board went ahead or, as the case may be, the staff went ahead and hired the additional staff, was there discussion at the board of the kinds of positions that were needed? Will we find, when we obtain the minutes, some reference to job descriptions then for each of the positions that were hired?

Mr. Batchelor: Yes, it was discussed at the board and there were job descriptions at the board. I don't believe the job descriptions are in the minutes, but there were job descriptions. Those job descriptions, Mr. Philip, were modified in accordance with the situation as we progressed.

Mr. Philip: So you made one set of job descriptions and then hired people who didn't meet them. Is that what you are saying?

Mr. Batchelor: No, I said that they were modified in accordance with the needs of the situation.

Mr. Philip: When we obtain the minutes, can we find reference to changes of the job description or the need to modify the job?

Mr. Batchelor: I think you will find something in there to that effect. I can't recall definitely, but I think you will.

Mr. Philip: Can you supply us then with letters to the consulting firm, or whoever did the hiring in some instances, of job descriptions as to what it was that they were looking for to hire?

Mr. Batchelor: Yes, we have; we have correspondence with the search firms we dealt with, yes.

Mr. Philip: And we will find in those letters, which you will supply to us, clear indications of the kinds of people then that they are trying to hire; a perfect job description, well defined as to what the position will be, what the salary is and how long one can expect the position to last for in the case of a temporary position?

Mr. Batchelor: No, you will not find a perfect job description. You will find an imperfect job description because again, we were starting from scratch.

Mr. Philip: What kind of job description will I find? Give me what you would put into one of the job descriptions.

Mr. Batchelor: An information officer—an information officer is one who is to dispense information on Condominium Ontario. He is knowledgeable of the Condominium Act; must possess certain basic educational requirements; et cetera. Generally, the type of things you would find, I would say, in most civil service job descriptions.

Mr. Philip: And what is the name of this highly reputable executive search firm?

Mr. Batchelor: The name is Hickling-Johnston.

Mr. Philip: Hickling-Johnston. We've run into them in other committees.

Hon. Mr. Drea: Well, I haven't.

Mr. M. N. Davison: Oh, I have.

Hon. Mr. Drea: You have?

Mr. M. N. Davison: You've heard of them, too. They studied your salary.

Hon. Mr. Drea: My salary?

Mr. Philip: Peter Carlson who is the chap who was hired for $20 an hour. His position was to put together a list of condominiums. Is that correct?

Mr. Batchelor: To assist in putting that together, we have been using many of our staff, up to the time Mr. Carlson came on the scene. He had been working and assisting the staff in compiling that. He came forward and offered himself to me to serve in that capacity. Having had extensive experience in the condominium field in Ontario, he was the only person out of the condominium world, if you wish to use that word, who came and said, "I will assist you," and he has. I do know from my association with other people in the condominium world that Mr. Carlson has had great exposure throughout the province.

So therefore, it was very essential that we have someone who could make contacts. He said he could do that. So I placed the matter before the board, and the board concurred and hired Mr. Carlson on the basis of the amount of money that is stated there.

Mr. M. N. Davison: A supplementary, Mr. Chairman. Mr. Batchelor, did the board ask the ministry for a list of condominium associations?

Mr. Batchelor: We approached the ministry and various agencies and other people. We've done everything we could to get lists of condominium corporations—

Mr. M. N. Davison: The answer to my question is "yes."

Hon. Mr. Drea: Yes.

Mr. M. N. Davison: Did the ministry supply the—

Hon. Mr. Drea: Mr. Davison, we supplied in the beginning as much as we had. We know it is far from there, far from being the list, Mr. Davison.

Mr. M. N. Davison: Why?

Hon. Mr. Drea: Why? Oh, for a number of reasons; one of which it's not only the list of condominium corporations, it is the actual mailing address. Mr. Davison, I went into the Hamilton area one night and a property manager came up to me and was asking some questions in general. It had nothing to do with what I was saying. I asked him how many condominium corporations there were in the region of Hamilton or Wentworth, I forget which. He gave me a number and I said, "No, no, no." You know, he started detailing, because he was in the business. Now hear what has happened—

Mr. M. N. Davison: The ministry doesn't know how many condominium corporations there are in the province of Ontario?

Hon. Mr. Drea: That is correct. We had Mr. Medhurst—

Mr. M. N. Davison: The Ministry of Consumer and Commercial Relations doesn't know how many corporations there are?

Hon. Mr. Drea: That is correct. Now, I will go on, because I can see—

Mr. M. N. Davison: Do you think that that is a very good state of affairs, Mr. Minister?

Hon. Mr. Drea: No, it is not and we have been trying to improve it for the last couple of years. I will tell you some of the difficulties, Mr. Davison.

At one time Mr. Medhurst, with his paper The Condominium, had done a very exhaustive survey, because obviously it was in his best interest to know where condominium corporations were so that his paper could be distributed. Mr. Medhurst thought he had them all and Mr. Medhurst now will tell you that he doesn't have them all.

Mr. M. N. Davison: Mr. Medhurst is not the Minister of Consumer and Commercial Affairs.

Hon. Mr. Drea: I'm aware of that and so are you. I'm saying that we started out trying to find these corporations. Now you are going to say, "Look, each and every one of these condominium corporations is registered." Yes, it is. But your difficulty is in actually going in—many of them are registered and perhaps Mr. Simpson here can outline some of the problems. It is not just an easy search you know, to go to each and every one.

Being somewhat naive I thought I would just write every one of my 66 registry offices and say, "Please supply this list." That, believe me, is only the beginning. Some of them have been registered by solicitors, or declarants, et cetera. There's no mailing address.

Now to say that the province of Ontario, or the minister, does not know the actual mailing address or a phone number of somebody where we can get it to, that is correct. Now obviously in the registry office—

Mr. M. N. Davison: Well, I am not surprised. You don't even know how many corporations there are.

Hon. Mr. Drea: No, I am not quibbling with you at all. I just point out a very serious problem and I hope you and everybody in here will address themselves to it.

Mr. M. N. Davison: You are right, it is a very serious problem.

Hon. Mr. Drea: It is, and we have been addressing it ourselves. But your difficulty, Mr. Davison, is getting—I am going to use an example because I know this one; it is in my riding. It is something to do with some corrective measures there—15 torts. I know there is a condominium corporation there. I know from my own experience that it is there. I know the address. But to whom in that condominium corporation do you send out lists, et cetera, to get names?

This is where it becomes very difficult. There has been an ongoing effort for as long as I have been in the ministry—and even before that—to get that accurate, up to date list.

[4:45]

Ms. Gigantes: Mr. Minister, I sympathize with the difficulty of the ministry on this one. I certainly found it to be true in the riding of Carleton East. Isn't the real problem—and this is really a symptom of the real problem—that the condominium associations have been in such chaos because of the strains put on them and the circumstances in which they are presumed to be able to operate in Ontario that the turnover on most boards of directors is—

Hon. Mr. Drea: Right.

Ms. Gigantes: That speaks to the really awful situation—

Hon. Mr. Drea: No.

Ms. Gigantes: —that condominium owners have had to face over the last eight years.

Hon. Mr. Drea: No. I think there are also some other reasons. A person may serve on a board for a year and find—

Ms. Gigantes: Is it eight years now?

Hon. Mr. Drea: —it is an onerous thing. For instance, in your area—what's his name? He is the head of the Ottawa—Mr. Pearce.

I discussed this with Mr. Pearce at some length. It is a highly unorganized federation in the Ottawa-Carleton area. Mr. Pearce explained they have been out trying to recruit members over the years and so on and so forth. They know people and everything else and he explained the difficulty.

Ms. Gigantes: I think this really raises a completely different problem, but I think it is interesting to note the result is the ministry doesn't even have a list.

Hon. Mr. Drea: Oh, it is getting there.

Ms. Gigantes: The shambles of condominium life in Ontario has been a symptom of the situation the minister has described very accurately.

Mr. Philip: What I find interesting is this chap has been paid $20 an hour since August, I believe, and you still don't have a list. Is that not true? You don't have a complete list?

Mr. Batchelor: We have 1,000 complete and roughly, I would say, 300 partial. Partial means we have a name and a phone number. I told you we had 1,439. We are closing in on it fast.

Mr. Philip: You have roughly two thirds with somebody working at $20 an hour since August?

Mr. Batchelor: When you read $20 an hour, that is for a maximum of 20 hours per week, for a maximum of $3,600.

Mr. Philip: I can tell you, Mr. Batchelor, if you had come to me I could have provided you within one hour and without even the payment of $20 with a list of where the condominiums are in my riding, because I certainly get information out to them very quickly.

Hon. Mr. Drea: Mr. Philip, I could have done that in part of Scarborough, too, but we are talking about places all over. We are talking about the Niagara region, we are talking about Hamilton. Certainly, we could have gone to members and said, "Do you know?"

The difference is your area is even different from mine. Your area has a great number of condominium corporations and they are visible. In mine, some of them aren't. Some of them are a small group of townhouses. I don't know, as a member, whether they are condominiums or whether they are rented, and so on and so forth.

In addition to this, I tell you we have tried every possible way of getting these up to date. To me, it is very, very important. By up to date we mean not just the physical location but who the president is and who the secretary is, so that documents can be served, et cetera, et cetera, or information conveyed, or some type of communication done.

It has been said it's a shambles. What you have to remember is the people who function in condominium corporations are volunteers. They generally have other occupations. It is not something where you snap your fingers and say, "Produce it now."

Some of them think you know them. They don't understand that at the time of registry it was a declarant, which is a law firm. You call up the law firm and one would reasonably think they knew who they dealt with, but they say, "We don't know." In fact, in some cases we were thinking about virtually having to go door to door in certain condominiums to find out. I will tell you as a layman it is a difficult problem, one where I would have taken your attitude, "What the heck? I know where they are in my riding. I don't have that many. What is the great mystery?" It becomes somewhat involved, especially in areas beyond Metropolitan Toronto.

Mr. Breithaupt: The fact is you do know the number of condominiums in the province.

Hon. Mr. Drea: Yes.

Mr. Breithaupt: That is something that could be updated any hour of any day by contacting the registry office, but the contacting of persons in some 300 or so is incomplete at this point.

Mr. Batchelor: That's right, and we are going through the completion of it.

Mr. Philip: From a very personal point of view, I hope you don't come up with a complete list because at least those condominiums will be saved from the unjust levy which is being imposed on each condominium owner in Ontario.

Mr. M. N. Davison: Hear, hear.

Hon. Mr. Drea: It is a very just levy. If you want to make editorial comments, I will make some, too.

Ms. Gigantes: How do the municipalities collect taxes?

Mr. Batchelor: I hope, Mr. Philip, when you looked at me you didn't think I'd established the levy.

Mr. Philip: Let's talk about the levy. In a document from you, this precious public relations document sent out to the condominium boards you have located after all of your efforts since August, you say, "It is thought that the fee will be $4 and $5 per year per unit, assessed through the condominium corporations." Did you check that figure with the minister?

Hon. Mr. Drea: It's less than what I had suggested as a top. I had said somewhere around $6, and I said that is the maximum. It may indeed, if I have my way, because I am somewhat notorious, Mr. Philip, for being thrifty, be much less. I didn't want them to draw conclusions as to the seed money or me paying the first fiscal year, because there were many expenses that would never, ever occur again in all of the corporations.

Mr. Philip: With the greatest of respect, Mr. Chairman, to the minister.

Hon. Mr. Drea: You were there at a meeting with me; you heard me say what the levy would be. Let's get to the point.

Mr. Philip: I was there at the meeting and as a matter of fact, I see some people in the audience who were there at the meeting also.

Hon. Mr. Drea: Yes.

Mr. Philip: I recall and I have checked it out with them and since it was videotaped, we can verify it with Maclean Hunter if we want to, you turned to Mr. Kumer and discussed the question with him and you said, "Five or eight dollars." You thought, and then the question of the budget came up and you said, "Roughly $500,000 based on three quarters of a year." Mr. Kumer turned and said, "More like $800,000."

Hon. Mr. Drea: The question that was asked, Mr. Philip, and please keep it in context, is what we were doing the first year. I just explained it to you, as I have explained on numerous occasions when I was in Ottawa, in Etobicoke, in Mississauga, in North York and at Seneca College. Many of the people who come are the same ones because they are very interesting seminars and they do take a leading role.

I have never varied. I have tried to put a cap on it. I have explained the ministry is paying for it and also explained that no matter what I have foreseen as my commitment to pay until March 31, 1980, of course I have a surplus in there. I don't know what may or may not occur. I don't want to leave these people high and dry in the month of January, but they weren't to take things from that. It was my feeling it would come in at this amount. There were certain expenses that would never, in an ordinary course, occur again. I'll stand by what I said, Mr. Philip.

Mr. Philip: But you're not denying your statement at the Etobicoke Condominium Association meeting was the levy would be somewhere between $5 and $8 and this document says between $4 and $5.

Hon. Mr. Drea: Mr. Philip, please, let's have it clarified. I did not say would be, I said could be. I said $5 to $8. If you ask me today, "What will the levy be?" I am not in a position to give it to you point blank. I don't think there should be an inference drawn.

Quite frankly, when talking about this, I'll stand by what I have said. It has been recorded across the province I invariably say that to the best of my belief it wouldn't come in at over $6. Those are estimates, Mr. Philip.

Mr. Philip: Using the words of the Condominium Ontario news release, "It is thought the fee will be . . ." You are thinking the fee will be what you quoted in Etobicoke, $5 to $8, and the thinking of Condominium Ontario is $4 to $5 in this document.

Hon. Mr. Drea: Mr. Philip, you are suggesting these were both done on the same day. The time I was in Etobicoke was many months before. I have been constantly impressing on everybody there has to be efficiency, there has to be productivity. There has to be the greatest of restraint and innovation to bring that amount down.

Mr. Philip, I would love to see it come in at a dollar or something; surely that is the object or the goal. But if you are going to suggest I said one thing on one day and they say another thing on the same day, this is not true, this is over a span of time.

Mr. Philip: Are you suggesting to us you are revising your estimate downward at this point in time?

Hon. Mr. Drea: Yes, I have revised it. When I first started out way back last year, it was my thought it would probably be $10. One of the reasons, I will tell you, is the number of condominiums. I knew roughly what the budget was, but I wanted to find out the exact number of condominiums and what we can do very cheaply. They have worked out methods of communication and so forth that are much cheaper than a consultant or somebody else would have done.

Sure, I would hope you would encourage me to get it down. That's my job. It's one of the few jobs I have in this whole area.

Mr. Philip: I would encourage you to eliminate the fee.

Hon. Mr. Drea: You lost that battle in the House, Mr. Philip.

Mr. Philip: I wonder if we have lost that battle. I'm wondering if you're aware of the statement that was alleged to have been made by Mr. Kumer to a well known solicitor in the city that if there was tremendous opposition to the funding, perhaps it would be dropped?

Hon. Mr. Drea: No, I'm not aware of that. Are you asking me?

Mr. Philip: Can you ask Mr. Kumer if he ever made that statement? Is he present?

Hon. Mr. Drea: No, he's not.

Mr. Philip: Would you ask Mr. Kumer if he would report back to us if he's ever made that statement?

Hon. Mr. Drea: Yes, I will. But why don't you ask a supplementary and ask me if I'm going to drop it because the answer is "no."

Mr. Philip: I think we're quite aware of where the minister stands on that.

Hon. Mr. Drea: Oh, okay.

Mr. Philip: So are the condominium owners.

Hon. Mr. Drea: I may say, in all fairness too, that Mr. Kumer is no longer associated with Condominium Ontario. Mr. Kumer, as you know, is with the Residential Tenancies Commission. It has been three or four months since Mr. Kumer was involved.

Mr. Philip: I wonder, Mr. Batchelor, if we can go through the way in which Mr. Littlefield ceased being a member of your board of directors. I assume that at the time you met with the original board you were fairly familiar with some of their backgrounds, were you? As a chairman of the board that would be one of the first things that you would try to do.

Mr. Batchelor: Yes. When you say "familiar," I wasn't well acquainted but fairly well acquainted.

Mr. Philip: Were you aware at the time that Mr. Littlefield had shown constant opposition to the levy and, indeed, to the whole concept of Condo Ontario; that he and his organization favoured a registrar as proposed by the Kealey commission which had been prepared at considerable cost to the taxpayers and had gone around the province getting condominium owners' views?

Mr. Batchelor: I had heard that was Mr. Littlefield's position.

Hon. Mr. Drea: Perhaps in fairness to Mr. Littlefield Mr. Philip should make this very clear. At the original organizational meetings, long before Mr. Batchelor was involved, Mr. Littlefield was somewhat concerned that perhaps the stance he had taken during debate on the bill and so forth would preclude him from taking an active part in the evolution, I guess is the best word, of Condominium Ontario.

Mr. Littlefield talked to me privately before that. I told Mr. Littlefield "no." Mr. Littlefield told me his concern was that he would work honestly and whatever had been done in the past he had fought the good fight but he recognized that there was a new situation and he would work very earnestly. I said to him, "Mr. Littlefield, you don't have to tell me that. You don't have to tell me that at all, Mr. Littlefield. If you want to become involved that's certainly your prerogative. You go just as far as you can. You don't have to get approval from me."

On another occasion, even before Mr. Batchelor was involved, one of the things that did come up—and it was somewhat spontaneous because it wasn't brought up by me; as far as I was concerned the matter was closed—was that the other people who were in that organizational meeting, all of whom had supported it and had argued very vehemently in federation matters with Mr. Littlefield, encouraged him to become involved. So, whatever the background was, Mr. Littlefield wanted to be a participant, et cetera.

I was somewhat embarrassed, frankly, that he would ask me. I would have thought he would have done so automatically, but I guess there was a feeling there. It was forgotten by me and, as I say, I was somewhat surprised at the next meeting—maybe it was even that night, but it was at a separate time interval—that the other people on the board at that time encouraged Mr. Littlefield to participate. They gave him very active encouragement. Now, unfortunately, it seems we didn't keep minutes of those preorganizational meetings, but I recall that very definitely.

[5:00]

Mr. Philip: Mr. Batchelor, I wonder if you could tell us when you came to the conclusion that Mr. Littlefield should be forced off the board of directors of Condominium Ontario? I use "you" in the singular.

Mr. Batchelor: I never came to a conclusion that he should be forced off the board at any time. Mr. Littlefield and I had many exchanges and before the question of his removal, or attempted removal, from the board arose, I discussed the entire matter of Mr. Littlefield's appearance before the North York Condominium Association. As it was told to me over the telephone, he had been there

at a meeting soliciting funds, as I understood it, to fight the legislation. I asked him if this was true. He said, yes, he had appeared before the North York Condominium Association along with other members of his board.

Mr. Philip: Would you stop there then for just a minute? I would like to question you on that.

Are you aware that Mr. Littlefield and the executive of the Etobicoke Condominium Association were invited as guests of the North York Condominium Association board? Are you aware that Mr. Littlefield was invited as the president of the Etobicoke Condominium Association and not as a director of Condo Ontario?

Mr. Batchelor: I was not aware of how he got there until I talked to Mr. Littlefield.

Mr. Philip: Were you made aware of that by Mr. Littlefield?

Mr. Batchelor: Yes.

Mr. Philip: Is it your feeling, then, that the moment someone joins the board of directors of Condominium Ontario he must cease giving his views, or acting in his capacity in some other organization such as in the way Mr. Littlefield was acting along with other members of his executive of the Etobicoke Condominium Association on a particular evening? Do we have to declare where we go at night in order to satisfy your insatiable interest in our activities?

Mr. Batchelor: No, I certainly do not, Mr. Philip.

Mr. Philip: Then why should it trouble you and why, indeed, should you ask any questions if Mr. Littlefield, as president of the Etobicoke Condominium Association, had a social evening out with members of the North York Condominium Association? Surely, Condo Ontario should encourage the getting together of various condominium associations. One would think that you'd laud that and say, "Well done, Terry. I hope more associations get together."

Mr. Batchelor: I'm reading something that everyone around this table would know. It says in the legislation:

"Each corporation shall pay the bureau an annual fee in the amount prescribed by regulation for each unit comprised in the property and shall file such information and material as prescribed by the regulations."

I knew Terry's position. I knew the position of the Etobicoke association. I said to Terry—and this had nothing to do with the amount of money that he was out soliciting funds for, for a particular purpose, and this is the point. I asked the question, "Why, Terry, having sat all these months on the board of Condominium Ontario and your association feeling as strongly as you say they do, have you not moved a motion or taken some action at the board to indicate that possibly as the chairman of the board I should be sent to talk to the minister about the fee structure?"

He said, "If I had done that it would have lost."

I said, "You don't know for sure it would have lost and you don't know whether I may have supported your position. However, had it lost, knowing the board as I do and the fairness of the board, I am sure they would have allowed me to have taken a minority report, if you had requested it, to the minister and present it to the best of my ability."

He said, "In retrospect, maybe I should have done it."

That is how the matter was discussed. Then he said, "You only have hearsay information about what went on at North York."

I said, "If an affidavit would satisfy you from a person, I'll endeavour to get the affidavit." I obtained an affidavit and, if you wish, I will read it into the record.

Mr. Philip: Fine, would you read it please?

Mr. Batchelor: Yes.

"I, Erma Jenei of the city of North York, in the municipality of Metropolitan Toronto, make oath and say on September 4, 1979, at a meeting of the directors of the North York Condominium Association . . . I was present when Terry Littlefield of the Etobicoke Condominium Association said, 'We have engaged legal counsel regarding the constitutionality and the funding of Condominium Ontario and have sent a registered notice to the Attorney General of the province regarding litigation at the Supreme Court'."

Mr. Philip: Do you have an objection to the president of the Etobicoke Condominium Association giving what amounts to information to the North York Condominium Association that his particular association at a democratically elected board meeting decided to obtain legal counsel to test the constitutionality of what Condominium Ontario is doing or what any other body is doing?

Mr. Batchelor: No, this is not the basis upon which I found that his conduct was prejudicial to the good of Condominium Ontario.

Mr. Philip: What was prejudicial?

Mr. Batchelor: His soliciting or asking for funds. When I had the meeting with Terry, I said, "Have you approached any other associations?" He said, "Oh, yes, I have ap-

proached a number of associations to ask for assistance in funding." I said that seemed to be in conflict with this and that I felt it was my responsibility as chairman of the board to operate under this legislation.

Mr. Philip: A conflict of what? Where is the conflict?

Mr. Batchelor: Page 49, section 8. The conflict, as far as I am concerned, is that I am serving on the board, hopefully as a representative of this Legislature and not really a representative of a party. Therefore, I am trying to follow the legislation to the best of my ability. I felt for someone to go out to solicit funds from another association or more than one association to defeat this legislation was not, in my opinion, Mr. Philip —it may not be your opinion—in the best interest of Condominium Ontario.

Mr. Philip: With the greatest respect, having had all this experience as clerk, one would think you would distinguish between defeating this legislation and testing in a court of law a constitutional point of the legislation, a point dealing exclusively with how this particular organization was funded.

However, I will put a question to you then as someone with the experience of a clerk to city government. Do you think if I were an alderman and felt the city I was serving was in some way acting in an illegal way, and if with my community group or as president of a community group I wished to get support to test the legality of that action, would I have to resign my post as an alderman or as an MPP if I wanted to test the constitutionality of what the government is doing or what the city council is doing?

Mr. Batchelor: You know the answer, Mr. Philip; you would not. That is another area of law.

Mr. Philip: So you have one set of rules for city councils and for Parliament and another set of rules for Condominium Ontario?

Hon. Mr. Drea: No, for corporations, Mr. Philip, please. You are surely not advocating we tear up some corporation law rules.

Mr. M. N. Davison: What is that? Would you repeat what you said?

Hon. Mr. Drea: I said surely there is a difference between being a director of a corporation. This is a non-share, non-profit corporation. It is not a government. There is a big difference, a very substantial difference.

Mr. M. N. Davison: Could I ask you a question? I take it a large part of your opinion was based on the affidavit you read into the record?

Mr. Batchelor: Correct.

Mr. M. N. Davison: In that affidavit would you reread the fourth line of the third paragraph?

Mr. Batchelor: The fourth line says; "constitutionality and the funding of Condominium Ontario."

Mr. M. N. Davison: That is your understanding of what Mr. Littlefield and his colleagues in the Etobicoke Condominium Association are doing?

Mr. Batchelor: I cannot interpret an affidavit for you. This is someone else's affidavit. I can't interpret it for you, Mr. Davison.

Mr. M. N. Davison: On the basis of something that doesn't even make sense and isn't accurate, you come up with that conclusion?

Mr. Batchelor: I came up with the conclusion that under our corporation law, as I understood it, this was a matter I should place before the members of the corporation in order to have them determine what they wanted to do about it. It wasn't something where I could sit in my own office and make judgement on and decide.

Mr. M. N. Davison: Do you understand Mr. Littlefield and the Etobicoke Condominium Association to be challenging the constitutionality of Condominium Ontario? Is that what you understand? No.

Mr. Batchelor: You're answering my question. I was just going to say no, I don't understand them to be doing that at all.

Mr. M. N. Davison: Do you understand them to be challenging the funding of Condominium Ontario?

Mr. Batchelor: I've just been told by Mr. Philip that they do, and that's my understanding also.

Mr. Philip: I think I asked you the question if that was what your understanding was. You said yes.

Mr. Batchelor: Yes, I understand it because I believe you also understand it.

Mr. Philip: Now you've just said no.

Mr. Batchelor: No, I have not.

Mr. M. N. Davison: You don't understand the issue to be the constitutionality of the funding?

Mr. Batchelor: I wish you would not ask me to interpret words that are in someone else's affidavit.

Mr. M. N. Davison: You took some action based on this affidavit.

Mr. Batchelor: Yes, I took action and considered this was prejudicial to the best interest, as it states in here—

Mr. M. N. Davison: Even though it's inaccurate.

Mr. Batchelor: I can't class whether it's accurate or inaccurate. I have to place it before the members of my corporation under corporate law and let them determine whether it's accurate or inaccurate. I wouldn't presume myself, as one individual on this board who is not an expert in corporate law but knowledgeable of corporate law, to determine all by myself, "I can just sit on this and put it in a drawer."

All I did was then follow the due process under law of the function of a corporation and a meeting of the corporation was held.

Mr. Philip: I wonder if we can deal with the process you followed, because I find the stories I've heard about it very interesting. How did you bring this matter before the board?

Mr. Batchelor: Not before the board, before the members of the corporation.

Mr. Philip: Before the members of the corporation.

Mr. Batchelor: I brought it after consultation with what I considered to be first-class legal advice from experts in corporate law.

Mr. M. N. Davison: Do you have some written statement or legal opinion that says that?

Mr. Batchelor: No, I do not have legal opinion, but I asked how I proceed and verbally I was advised, "This is the way you proceed."

Mr. M. N. Davison: That's some first-class lawyer—verbally.

Mr. Philip: If you asked how you proceeded, are you convinced you proceeded according to the Corporations Act?

Mr. Batchelor: Yes.

Mr. Philip: That you gave due and proper notice of the meeting?

Mr. Batchelor: Yes.

Mr. Philip: You're convinced of that?

Mr. Batchelor: I am convinced of that.

Mr. Philip: What happened at that meeting?

Mr. Batchelor: At the meeting we sent out the due and proper notice, as you stated. With that was each item that was on the agenda, including the one involving Mr. Littlefield. We sent along a ballot with the particular agenda that went to each member. The only item where the question of a ballot came into discussion was with Mr. Littlefield.

Mr. Philip: Had you taken ballots before?

Mr. Batchelor: Never. That was our first corporation meeting. We held our meeting and the matter of this affidavit was before the corporation.

Mr. Breithaupt: Mr. Littlefield was present at the meeting, wasn't he?

Mr. Batchelor: Mr. Littlefield was present at the entire meeting—not the entire meeting; there was a point when he left. However, he was present at the meeting; he presented a lengthy written submission of his position; and he was questioned by myself on some of the statements I did not consider to be accurate.

He was also questioned by other members of the board in other areas. Again, this is not verbatim in the minutes, but there was questioning back and forth. At a particular point in time—yes, Mr. Philip is listening—Mr. Littlefield said, "Here is my resignation, typed."

We had spent roughly, I would guess, an hour and a half at least discussing this matter.

Mr. Philip: Where were you during this discussion? Were you in the chair?

Mr. Batchelor: Yes, I was in the chair except when I asked Mr. Pacey, our legal member, to take the chair while I wished to speak.

[5:15]

Mr. Philip: What did you say in that speech? Can you give us a summary?

Mr. Batchelor: I didn't make a speech. As I said I discussed with a previous individual who questioned me on this some of the things in Mr. Littlefield's letter I disagreed with.

Mr. Philip: Is it not true that you removed yourself from the chair, you sat in the committee and then you made a vicious attack on Mr. Littlefield as undermining the goals and objectives of Condominium Ontario? Is that not what you did?

Mr. Batchelor: That is not true.

Mr. Philip: Tell us what you did do when you were not in the chair. What did you cover?

Mr. Batchelor: I questioned the statements made in Mr. Littlefield's letter that were not true.

Mr. Philip: What statements did Mr. Littlefield make that were not true?

Mr. Batchelor: I can't remember them but I have the letter. I could get the letter out and underline the items.

Mr. Philip: Will the minutes, when we obtain them—and we've asked for all the minutes from the minister—show those items which you claimed to be untrue?

Mr. Batchelor: No, they will not.

Mr. Philip: They will not. In fact, then, you presented evidence for which we have no minutes stating that Mr. Littlefield was lying in his letter.

Mr. Batchelor: I didn't say he was lying. I said the statements were untrue. Mr. Littlefield responded to that and said, "That's your interpretation." I said, "Terry, Mr. Michael Armstrong was present when I discussed the mattter with you and these items were discussed. He can attest to the fact what I am saying is true and that what you're saying is not."

Mr. Philip: The document on which you're basing your accusation against Mr. Littlefield was the commissioned oath which says, "In the matter of Terry Littlefield, the director of Condominium Ontario, I, Irma Jenei, of the city of North York and the municipality of Metropolitan Toronto, make oath and say that on September 4, 1979, at a meeting of the directors of North York Condominium Association I was present when Terry Littlefield of the Etobicoke Condominium Association said, 'We have engaged legal counsel regarding the constitutionality and the funding of Condominium Ontario and have sent a registered letter to the Attorney General of the province regarding litigation at the Supreme Court.'

"Littlefield asked about North York defraying some of the costs and he said the Etobicoke Condominium Association had spent $300 and had sworn before a commissioner." That was the evidence that you presented to the committee?

Mr. Batchelor: To the corporation.

Mr. Philip: Fine. Since this then has gone into the record, I would like for your sake, Mr. Batchelor, and for the members of the committee to table a different document:

"We, B. Ness, M. Rouleau, P. Donnelly and L. Putans, make oath and say that on September 4, 1979, we were present at a meeting of the directors of North York Condominium Association which was attended by the executive members of the Etobicoke Condominium Association when Terry Littlefield, president of the Etobicoke Condominium Association, said that the Etobicoke Condominium Association had engaged legal counsel to question the constitutionality of the funding of Condominium Ontario and that a reply from an expert in the field had been received by counsel and the gist of this reply was sent by counsel by registered mail to the Attorney General of the province of Ontario.

"Mr. Littlefield asked about the possibility of the North York Condominium Association defraying some of the costs of future legal action on this issue. He indicated that the Etobicoke Condominium Association had already spent $300 to obtain this legal opinion."

What we have here are two documents, one which clearly disagrees with the other. The words "constitutionality and funding" are in the document that you made your judgement on. This document clearly states "the constitutionality of the funding of Condominium Ontario."

I'd like to have the record show that there was a controversy of information as to what happened and that you chose one set of information over another.

Mr. Batchelor: Mr. Chairman, I must challenge Mr. Philip on that, if I may. I had one affidavit of one Irma Jenei. The affidavit you're referring to was presented by Mr. Littlefield at the corporation meeting.

Mr. Philip: But you had both documents before you.

Mr. Batchelor: Oh yes, at the meeting; but you left the impression, I thought Mr. Philip, that I knew in advance of the meeting about the second affidavit.

Mr. Philip: I wasn't indicating that; I was indicating there was a correction.

Mr. Batchelor: And by the way, that second document is recorded in the minutes.

Mr. Philip: Fine. We appreciate that you have at least recorded some of the information for the other side.

I wonder if we can deal with another matter. You haven't satisfied me as to what exactly you said when you stepped out of the chair and went and addressed the other members of the corporation. At what point did you step out of that chair as chairman?

Mr. Batchelor: After the matter had been under discussion for some considerable period of time. The letter of Mr. Littlefield also stated that he did not wish to go into a protracted and lengthy discussion on the matter; then he went on to present, if I remember correctly about a three-page letter, and in fact went into a lengthy and protracted discussion of the matter. The board members listened to that discussion; and then some board members questioned him. I questioned him on the matters in the letter that I considered to be untrue.

Mr. Philip: You questioned him from the chair or out of the chair?

Mr. Batchelor: No, no. I explained before, Mr. Philip, that I relinquished the chair to Mr. Pacey, a lawyer, and I spoke as a member. I did not speak from the chair.

Mr. Philip: But you as a member did express the opinion that he should be asked to resign? Did you?

Mr. Batchelor: No, I did not. I just discussed the matters in his letter. The material and everything was presented to the corporation, in accordance with corporate law as I was advised on it.

Mr. Philip: What was the motion then?

Mr. Batchelor: The motion finally was made—by two other members of the board, not by me; I was back in the chair at this time—that Mr. Littlefield be removed from the board.

Mr. Philip: I am confused, because you said you mailed out a ballot. Did you not?

Mr. Batchelor: That was sent out with the agenda so that they would have a complete agenda. There were other items, in addition to Mr. Littlefield. These items that had been done by the board had to be ratified by the corporation. They all preceded the item of the question of whether Mr. Littlefield should remain on the board or not, and the ballots were sent in the event they wanted to use them. They were to bring all the material to the meeting, and there were also proxies sent for those who did not or could not attend. I had a proxy from one member who was not present and voted for that member according to his wishes.

Mr. M. N. Davison: You sent ballots out on a question that hadn't been moved before the board?

Mr. Batchelor: I am sorry, I meant proxies were sent out.

Mr. M. N. Davison: There were no ballots sent out?

Mr. Batchelor: I am sorry, I made a mistake on that.

Mr. M. N. Davison: On September 14, didn't you sign a letter that concludes as follows: "It is intended to ask the members of the corporation to consider, and if thought advisable to pass a resolution removing you as director of the corporatin."

Mr. Batchelor: Yes; before the meeting, to Mr. Littlefield.

Hon. Mr. Drea: That's notice. Surely you want to advise somebody that his status is going to be discussed. It doesn't say in there what it is going to be. If you are sending out proper notice you surely advise people that their status is going to be discussed.

Mr. Kerr: Mr. Batchelor, when was the typewritten resignation of Mr. Littlefield presented to you?

Mr. Batchelor: I think in answer to your question I will conclude my answer to Mr. Philip.

Mr. Kerr: All right.

Mr. Batchelor: We then got to the point in the meeting where a motion was made by two members that Mr. Littlefield be removed from the board. We discussed the matter an hour or an hour and a half, I can't remember exactly how long it was but it was a long time. At that point, Mr. Littlefield then stood up and said, "I wish to submit my resignation as a director." He walked up and handed it to me. It said: "As I was elected by the Etobicoke Condominium Association as its president and as it has become apparent that fulfilling my duties in this elected position cannot be accomplished so long as I remain an appointed director of Condominium Ontario, I hereby tender my resignation as director of Condominium Ontario." Mr. Littlefield then handed that to me, walked to the door and indicated he would love to stay and see the democratic process proceed; then he left.

We then got to the point, after that was presented, where a motion was made that the motion to have Mr. Littlefield removed as a director be withdrawn and the letter or the submission of resignation as a director by Mr. Littlefield be accepted by the corporation.

Mr. Philip: I think perhaps you may have inadvertently left out something in your description of what happened at the meeting and perhaps I can refresh your memory.

When you left being a member of the committee or of the corporation and resumed the chair, did you not at that time go through a fairly elaborate explanation of how ballots would be issued and each member had to sign the ballots?

Mr. Batchelor: No, that is not true. I had legal counsel beside me as to what I was to do as far as each step was concerned so it would be done properly from a legal point of view. There was a motion made at the meeting that the vote be taken by ballot; that was not suggested by me from the chair, it was made by one member and seconded by another member.

Mr. Philip: The vote by ballot really means, then, that you each get a ballot and not that you sign the ballot.

Mr. Batchelor: As I said, I had legal counsel and the ballots were prepared in accordance with corporation law; at the bottom of that ballot it had a place for the individual to sign.

Mr. Philip: Where in the Corporations Act can you show me that you must, in taking the

vote, have someone sign or put their name on the ballot? Show me the section.

Mr. Batchelor: I cannot show you the section because I don't know. I accepted, Mr. Philip, the legal counsel's advice that it had to be done.

Mr. Philip: With the greatest of respect, Mr. Batchelor, I talked to two corporation lawyers this afternoon and I met with the legislative librarian, I went through the Corporations Act and I cannot find anything in that act which makes this a requirement. I suggest to you that unless you had in your minutes or in your bylaws some regulation requiring that, I can't see why you would use this process.

Mr. Batchelor: I was just reminded by Mr. Armstrong it is correct, too, that we were requested to have a recorded vote.

Mr. Philip: It's perfectly in order to have someone request a recorded vote; a recorded vote usually means that people put up their hands.

Mr. Batchelor: No, but it was moved and duly seconded, Mr. Philip, that it be done by ballot.

Mr. Philip: Who moved that?

Mr. Batchelor: It will be in the minutes. I can't remember who moved it, but it is in the minutes.

Mr. Philip: But you did, initially, before that motion, hand out ballots, each of which had a place on it for everyone to sign their name?

Mr. Batchelor: Not until requested by the board, Mr. Philip.

Mr. Philip: Some corporation member moved that you hand out the ballots, is that right?

Mr. Batchelor: Right.

Mr. Philip: But the ballots that were prepared in advance had a spot for each member of the corporation to sign their name to it, is that correct?

Mr. Batchelor: Correct.

Mr. Philip: And you and your staff had prepared that ballot with the place in it for the name?

Mr. Batchelor: The solicitor had assisted us in the preparation of this in accordance with what he said was required.

Mr. Philip: So, in fact, in preparing for the meeting you prepared what amounted to ballots that had a place on them for every member of that corporation to put their names?

Mr. Batchelor: Correct.

Mr. Philip: And I am asking you, what section under the Corporations Act gives you any requirement, then, that this be done?

Mr. Batchelor: I cannot answer that, Mr. Chairman, because I do not know.

Mr. Philip: If you were a member of the board—

Mr. Breithaupt: May I ask a supplementary at this point.

Was there any requirement made, or any announcement made at the meeting, that members of the corporation were expected or required to sign any ballot?

Mr. Batchelor: There was no statement made to that effect.

Ms. Gigantes: Well, they clearly expected to sign.

Mr. Batchelor: There was no request for anyone to sign it; the ballots were asked to be given out by the board members when Mr. Littlefield got up and presented this, it was after he said he didn't want to have a protracted discussion. He had this typed resignation with him, which indicates to me, I don't know if it indicates to this committee or not, that after all of the lengthy discussion we went through he was prepared to submit this.

Mr. M. N. Davison: There are people who walk around here all day long with resignations in their pockets.

Mr. Batchelor: I have not been involved in—

Mr. Breithaupt: I think Mr. Davison is correct that there's one who has 26 in his pocket.

Just to follow up on that point: Was there any reason given to you, Mr. Batchelor, as chairman, by the solicitor, as to why space for a name appeared on the ballot?

[5:30]

Mr. Batchelor: I cannot recall because I did not discuss it. I wish the members would try to remember this: I'm moving into an area of corporate law, I've spent considerable time in other areas of law but I am not that familiar with corporate law; I would take the advice of my lawyer, who was familiar with it.

Mr. Philip: Placing yourself in the position of a board member, Mr. Batchelor, or a member of the corporation new to all of this—perhaps new to politics, although some of them are now being involved in condominium politics in a certain sense; at any rate they are sitting on a board. First of all they are given the name of a person who it is suggested should be their chairman. The members of the board suddenly arrive, there's

a controversy over the conduct of one of them, and they get ballots with space on them for their names; all this after you, out of the chair, have given a speech that in fact suggests this person's conduct was improper.

Would you not consider this fairly intimidating? Would you not think, if you were in that position, that the signing of your name and the voting in the wrong direction, a direction which perhaps the chairman didn't want, would make you the next on his hit list?

Mr. Batchelor: Mr. Chairman, I don't know where Mr. Philip comes up with the phrase "hit list." Mrs. Campbell has known me for a number of years and she knows my conduct. She knows I have never attacked anyone—

Mr. M. N. Davison: It's interesting to note that as soon as somebody opens his mouth to possibly criticize something Condominium Ontario is doing, almost the next day he's off the board.

Hon. Mr. Drea: Mr. Davison, let's put that one on the record. There's a bill in this House that isn't going to pass because members of Condominium Ontario told me they didn't want it to pass. That bill was introduced by me, regarding condominiums, because it was a suggestion by members.

I've got the embarrassment of that bill; I think it's Bill 125. It's going to die on the Order Paper because they will not support it. Don't tell me that people get disciplined on something for disagreeing.

Mr. M. N. Davison: September 14: "I consider the information disclosed therein to indicate that you have done or committed acts or things prejudicial to the best interests of the corporation." A corporation publicly funded.

Hon. Mr. Drea: That is a letter from within the corporation. What you were suggesting is something else.

Mr. M. N. Davison: To Mr. Littlefield from Mr. Batchelor.

Hon. Mr. Drea: Let's get off this, that there's some kind of discipline overhanging them.

Mr. Philip: I would like to sum up some of the things I think we've learned. First of all, we've learned we have a Condominium Ontario which the minister goes around the province telling condominium owners is their association. Yet the chairman is suggested to them after their appointment. We have an organization where a decision is made not to make public the minutes of their meetings; an organization funded by the taxpayers and supposed to be the condominium owners' own organization, but they can't even read about the decisions in the minutes in The Condominium, which is the only information which reaches a majority of condominium owners, or a large percentage of them.

We find that when some of these minutes make it into the hands of people outside the board of directors suddenly people on that board are questioned as to who released that information. Then we have the president of a group of condominium associations, the president of the Etobicoke Condominium Association, who, acting in his capacity as president of that association, provides information to another association concerning the constitutionality of one section of a particular act, and he then suddenly receives a letter from the chairman of Condominium Ontario suggesting he has done or committed acts or things prejudicial to the best interests of the corporation by questioning the legality of one action or one section of the act.

Then we have a decision made on a statement about which there are other indications it may be inaccurate and that wrong words are used in spots in a signed affidavit. Then we have a ballot which is prepared in a manner that is in no way governed by the bylaws, which in all of these months you still haven't come up with, and which certainly is not covered by the Corporations Act. There is nothing in the act that required that. Members then are faced with a ballot which they must sign. There is even a place prepared in advance for their signature. They know what they are voting on, the forced resignation of someone whose major and only offence was that as president of his condominium association he expressed the information that a lawyer had given him and expressed that by way of providing information to another condominium corporation.

I refer you to the editorial in the Etobicoke Gazette that criticizes you as being a front for the government and as being a shoddy kind of operation—"shoddy" is my word. If you think this is a democratic way to operate after all of your years as a clerk for a democratically elected council, then I think you should be ashamed of yourself. I would think the best thing that could happen to Condominium Ontario and to the people of Ontario would be to see the last of you as quickly as possible.

Hon. Mr. Drea: Mr. Philip, that was totally uncalled for.

Mr. Williams: That's the worst diatribe I have heard since sitting around here in Queen's Park. To listen to that type of tripe

downgrades the integrity of the committee system in a manner such as I have never heard before. To carry on with character assassination like that is just unforgivable.

Mr. Acting Chairman: Order.

Mr. Williams: Mr. Philip, you are a disgrace to the committee.

Mr. Philip: A point of order, Mr. Chairman.

Mr. Acting Chairman: I have recognized Mrs. Campbell, Mr. Philip.

Mr. Philip: I have a point of order, but I will yield to Mrs. Campbell.

Mrs. Campbell: I have to apologize for having had to leave this meeting for another meeting. At the time that I was here and just before I left, Mr. Batchelor was explaining—and I thought quite properly—that he must be directed by his board in the actions which he took. I am unclear as to whether or not the board directed him to send this letter before this meeting.

Was there a meeting of the board directing the chairman to send such a letter or was there not?

Mr. Batchelor: There was not, Mrs. Campbell?

Mrs. Campbell: So this letter went entirely on the initiative of the chairman?

Mr. Batchelor: It went on my initiative. I thought I could take the matter before the board. I discussed it with our solicitor who advises on corporation matters. He said that matter cannot go before the board. The matter has to go before the corporation because the corporation appoints or recommends people to the board and would have to recommend removal. As we had never had a corporation meeting, I could not notify anyone and for the first time I had to take the initiative.

Mr. Acting Chairman: Mrs. Campbell, perhaps at this time I might break in. We should be voting in a few minutes. Could we ask Mr. Batchelor to return tomorrow? On behalf of the committee, I would like to thank you, Mr. Batchelor, for your co-operation today.

Mr. Batchelor: Mr. Chairman, I have to be out of town tomorrow. I think I have answered most of the questions. I don't know whether Mr. Philip considers I have answered them to the best of his interpretation, but I have tried to do that. I regret the remarks he has made about me, because I have endeavoured in all my years of public service to do my best, whether it be here to assist the province or whether it be in my role as city clerk.

Mr. Philip: Mr. Batchelor, the remarks I have made and the remarks The Condominium newspaper has made were made not only here but also in a television program. I challenge you, if any of the remarks we have made, either Anna Vaitiekunas, the editor of The Condominium or I—

Mr. Acting Chairman: I am going to adjourn the committee hearing.

Mr. Breithaupt: Is the matter of the condominium circumstances to be considered completed so that we are able to return to votes 1505 and 1506 tomorrow morning? Is that the intention?

Mr. Acting Chairman: Shall items 1 and 2 of vote 1505 carry?

Mr. Breithaupt: I would prefer if we could place the two votes tomorrow and then we will deal with odds and ends of questions members might have.

The committee adjourned at 5:45 p.m.

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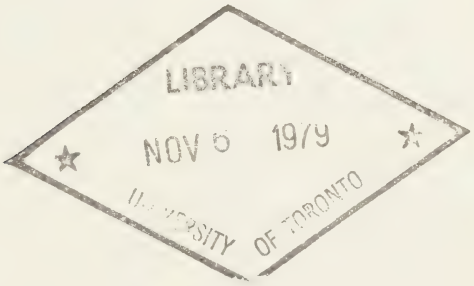
Ontario

No. J-10

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of Consumer and Commercial Relations



Third Session, 31st Parliament
Friday, October 19, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

FRIDAY, OCTOBER 19, 1979

The committee met at 11:41 a.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Acting Chairman: I recognize a quorum.

Mr. Williams: Mr. Chairman, a point of privilege, if I might: I'd like to reflect for a moment on what transpired yesterday afternoon and how I feel my privileges, and the privileges of other members of this committee, have been breached. I think to remain silent on what happened yesterday afteroon is in fact to condone what transpired as far as the questioning by Mr. Philip of the witness was concerned, and the conclusion of the hearings yesterday and what the significance of that is to us.

I think we all realize and recognize that as members of the Legislature we have certain privileges and rights that no others in this province have. By the same token, because of those extraordinary privileges that are accorded to us we are respected. We are expected by the public at large to conduct ourselves according to certain standards of behaviour that are acceptable and responsible.

Yesterday afternoon, Mr. Philip, in conducting his questioning of the witness, was exercising one of those rare privileges that we have—namely to bring before this committee any citizen in the province in order to question him on any subject, and if he refuses to attend we can subpoena him and put him under oath and he will testify.

Because of that privilege we enjoy, a lot of us—some members more than others—seem to get a great deal of pleasure out of becoming amateur Clarence Darrows and J J. Robinettes in the way they conduct their courtroom activities.

The fact that Mr. Philip, in particular, may conduct or undertake that amateur role poorly is beside the point. What does concern me, and I am sure it should concern every member of this committee, is that when we have the right to question members of the public, law-abiding citizens, and bring them before this committee, we as members of the Legislature and as politicians may be thick-skinned enough to accept arrogant behaviour on the part of members and we may accept the fact that they may endeavour to intimidate witnesses, but I think a line has to be drawn, Mr. Chairman. It has to be drawn when we are put in the position, as members of a committee of this Legislature, of having to sit back and listen to one of our members not only intimidate but insult, and in fact impugn the reputation and character of law-abiding citizens. I suggest to you, Mr. Chairman, that is going too far and for us, as members of a committee enjoying that privilege, to sit back and say nothing is in fact to condone a type of activity I believe to be reprehensible.

[11:45]

I will not be a part of that, Mr. Chairman.

I dissociate myself from it and I feel this committee should chastise Mr. Philip for the manner in which he abused, and I use that term advisedly, abused the witness yesterday, and in fact in my judgement committed what was tantamount to an act that impugned, as I said earlier, the very reputation and character of Mr. Batchelor. I don't know Mr. Batchelor other than by reputation. It was certainly battered about considerably yesterday.

It seems to me, Mr. Chairman, that there are certain standards we should abide by as members of the Legislature. I believe that this committee and the Legislature, in that performance yesterday, was debased because of the extreme measures to which Mr. Philip went in conducting his cross-examination. I will not, again, sit back and listen to that type of diatribe or that type of attack on witnesses who are brought before this committee. It went on for far too long before I realized what was happening.

I feel, Mr. Chairman, that this committee should reprehend Mr. Philip for the excesses he exercised yesterday, and that it would not be out of order for this committee to cite Mr. Philip and so report it to the House. I would hope that measures would be taken that perhaps the House itself would see fit to cite Mr. Philip for that type of behaviour.

I would hope, Mr. Chairman, that this type of behaviour would not transpire again before

this committee or any other committee of the Legislature. We have a full right to question members and citizens of the public as witnesses, but we should be doing it in a proper and responsible fashion. To insult and to impugn their reputations is excessive and I do not want to see any member of this Legislature hiding behind his legislative immunity to do these things to citizens of our community.

As I said, Mr. Chairman, the act was reprehensible and I cannot sit by silently and thereby condone what Mr. Philip did yesterday.

Mr. Acting Chairman: Thank you for your point of privilege, Mr. Williams. The committee cannot consider citing a member at this point because your privileges were not breached. If you are stating that Mr. Batchelor's privileges were somehow breached, or that he was insulted or chastised, Mr. Batchelor could, I suppose, through a member of the committee communicate those feelings to the chair. He has not done so.

I had the feeling that Mr. Batchelor was quite co-operative with the committee and helpful in his answers. It didn't strike me as questioning that was out of the norm. I think you've served on our public accounts committee and many civil servants have been questioned in much the same manner that Mr. Batchelor was and there was no personal attack intended.

Mr. Williams: I would suggest to you, Mr. Chairman, that it went so far as to verge on slander; that in fact some of the statements made in the concluding remarks by Mr. Philip were slanderous. I would hope that Mr. Batchelor would take legal counsel. The unfortunate fact of the matter is that Mr. Philip can hide behind his legislative immunity and make all kinds of slanderous statements against people; and I believe that that statement, his concluding statement yesterday was slanderous. I think it is regrettable that this committee would tolerate that type of behaviour.

Mr. Philip: In the first place, Mr. Chairman, I find it interesting that the member says I was in some way slandering Mr. Batchelor. To me slander or libel is the statement of something which is not true.

Mr. Williams was not here for all the questioning and therefore would not be in a position to judge what facts were true or not true in my conclusions since in fact he did not hear the testimony of the witness. He says—

Mr. Williams: I heard your slanderous closing comments to Mr. Batchelor, directed personally at—

Mr. Philip: I'm sorry; I have the floor, Mr. Chairman.

Mr. Williams: He had the floor all yesterday afternoon too.

Mr. Acting Chairman: Order. Mr. Philip has the floor.

Mr. Williams: It's about time you heard from somebody else.

Mr. Acting Chairman: Continue, Mr. Philip.

Mr. Philip: He said he heard my closing remarks. My closing remarks simply summarized the information we had found from the questioning of the witness. Mr. Williams, as is frequently the case, by his absence came in late in the hearings. The reason for his poor attendance on the committee is his business and the business of his constituents. However, to conclude that remarks were slanderous or untrue, not having heard the testimony and not having heard the evidence, I think clearly suggests that the member, Mr. Williams, is behaving in a most irresponsible manner.

He further states that this committee has the power to call any witness, any private citizen before it. That is not true. As a matter of fact, in order to make sure all the information we were going to obtain in this rather serious matter, the way in which Condo Ontario is being run, came out, I requested of the House leader to communicate to Mr. Wells my feelings, as the MPP for Etobicoke and as a condominium owner and as the representative of my condominium on the Etobicoke Condominium Association, that a full and public inquiry should be conducted into the rather questionable way in which Condo Ontario is being run. Unfortunately, the Conservative House leader, Thomas Wells, did not even have the courtesy to send a written reply to my House leader on that request.

If Mr. Williams were a little more familiar with committees, or perhaps if even his attendance at committees were a little more frequent, he would learn how committees operate and what the rules are.

A standing committee may not conduct an inquiry without a motion from the House. The motion was not forthcoming from the Conservative government House leader and therefore this committee was very restricted in who it could call. It could not call, as I would have called, Mr. Littlefield or other members of the board to find out what in fact happened at those various board meet-

ings. We were highly restricted. The only persons we could call on were the minister, his staff and those people who were in the employ of the government under this ministry.

Once again, Mr. Williams is wrong. He still doesn't understand how committees operate and he doesn't understand the rules of the House. He further states—

Mr. Williams: I understand the rules of common decency, Mr. Philip, which you don't appear to.

Mr. Philip: Well, one rule of common decency is not to attack someone unless you heard what he has said.

Mr. Williams: I was here and I heard the evidence, contrary to what you are trying to put on the record, Mr. Philip—

Mr. Philip: You weren't here. You were absent.

Mr. Williams: —the distortions you are making with regard to some of the documentary evidence.

Mr. Philip: On a point of order, Mr. Chairman—

Mrs. Campbell: Could we have some order?

Mr. Acting Chairman: Order, order.

Mr. Philip: Mr. Williams was not present during the entire questioning of the witness, that is fairly clear. He was not present, the record will show that.

He states that I have been using parliamentary immunity. I would like to refer Mr. Williams to the Toronto Star of two days ago—I think it was the Toronto Star; no, it is the Advertiser Guardian of October 17—in which I appeared on a TV show and I clearly stated, along with Anna Vaitiekunas, the editor of The Condominium, who had revealed many of these startling facts, that if any of these facts were wrong we challenged Mr. Batchelor to sue us. He clearly has the option to sue for libel or slander or whatever else he wants, because I have not said anything in committee which I have not repeated out of the House.

For you to say that I am hiding behind parliamentary immunity when I have made those statements publicly and challenged Mr. Batchelor to sue, I think is an assault on my character. One, you've decided to be crown prosecutor and judge of me on evidence you have not heard; and then you have accused me of something that is simply not true. I think that you simply owe me an apology. If Mr. Williams has any decency, he owes me an apology.

Mr. Acting Chairman: Thank you. Mr. Philip.

Mr. Williams: Go out and read your statement outside the House; the one you gave yesterday.

Mr. Acting Chairman: On Wednesday—another minor point I'll clear up right now—

Hon. Mr. Drea: Well, Mr. Chairman—

Mr. Acting Chairman: Oh, here's a ruling with regard to Mr. Williams' suggestion to chastise Mr. Philip: This committee has no power to chastise Mr. Philip. There is no offence against any standing order, so we are not in a position to do that, Mr. Williams.

Mr. Minister, did you have a question?

Hon. Mr. Drea: Yesterday Mr. Philip said that Mr. Kumer had made remarks, to a lawyer I believe, to the effect that if there was more controversy about the funding of Condominium Ontario we would be, the government—

Interjections.

Mrs. Campbell: Can I hear what the minister says?

Interjections.

Mr. Acting Chairman: Order; the minister has the floor.

Hon. Mr. Drea: Mr. Philip asked me—he seemed somewhat surprised that Mr. Kumer was not with Condominium Ontario for some time—he asked me to ascertain, if I could, from Mr. Kumer, whether those remarks were ever made by him.

I consulted with Mr. Kumer this morning. To the best of Mr. Kumer's recollection he has not made such remarks. So obviously whoever conveyed that—and he was not identified and I don't know how it was conveyed—that person either got it from somebody else who was misinformed or deliberately misrepresented something. As I say, I am rather powerless, although I did say yesterday very emphatically, as the minister I am not going to drop it. You asked for that to be brought back and I have.

Mr. Philip: Thank you, Mr. Minister, I appreciate that information.

Mr. Acting Chairman: Thank you.

On Wednesday the member for Hamilton Centre (Mr. M. N. Davison) asked the chair to review the comments of the Minister of Consumer and Commercial Relations on October 10, to determine if they were unparliamentary. As Acting Chairman, having reviewed Hansard and the context in which the words "not true" were spoken, I find that the minister's comments were not unparliamentary. They were not an attempt to impute

false or unavowed motives to another member or to charge another member with uttering a deliberate falsehood. Rather, they were used to deny a statement which had been attributed to the minister by the member for Welland-Thorold (Mr. Swart). I hope this clears up the matter.

Mr. Philip: That is a very reasonable decision, Mr. Chairman, and one that I would have made myself had I been in the chair.

Mr. Acting Chairman: Thank you, Mr. Philip. We have eight hours left in estimates.

Hon. Mr. Drea: We would have had more if Mr. Renwick hadn't raised the question of interest rates.

On vote 1505, property rights program; item 1, program administration:

Mr. Breithaupt: On vote 1505, Mr. Chairman, there are several areas I would like to discuss with the minister. The first, of course, deals with the operations.

Mr. M. N. Davison: Mr. Chairman, I was under the impression that other members still had remaining questions, as did Mr. Williams.

Mrs. Campbell: I understood that we had not concluded the matter that was before us yesterday. You may recall that Mr. Batchelor stated he would be unable to be here. I think we should conclude it.

Mr. Acting Chairman: Is it the committee's wish to deal with Condominium Ontario? Is that the committee's wish?

Mr. Breithaupt: Well, Mr. Chairman, I had thought that—

Mrs. Campbell: It was left over for further discussion.

Mr. Breithaupt: I thought we had agreed to carry the two particular votes, 1505 and 1506, this morning, and then return to the condominium matters if there was additional time. However, if members wish to reverse that, it is just fine with me.

Mr. M. N. Davison: The vote I was interested in holding over was the building code vote, which I think we can deal with a little more.

Hon. Mr. Drea: It was held over.

Mr. M. N. Davison: It's held over? The only agreement I recall yesterday on the condominium issue was that we would have our vote today, that we wouldn't have our vote yesterday.

Mr. Breithaupt: Do you want to finish that up now?

Mr. M. N. Davison: Yes, but if other members still have comments to make I wouldn't want to stop them.

Mr. Acting Chairman: Mrs. Campbell was on the list regarding Condominium Ontario. Mrs. Campbell.

Mrs. Campbell: Mr. Chairman, I want to be very frank. I was not here for the entire proceedings, I was called out to another meeting; but frankly I expected the minister to have a statement relating to my question of Mr. Batchelor, which I trust is not one to which any exception was taken.

I was concerned, if the minister recalls, as to the initiation of the letter to Mr. Littlefield. It did seem to me that when Mr. Batchelor advised us that he initiated that letter and that proceeding at the meeting, keeping in mind the minister's position that this was an organization for the condominium owners, as has been his philosophy, that in some measure perhaps his privileges had been breached in that this initiation did not flow from those owners but from a chairman, who was not an owner.

I have concerns about that procedure and I wonder if the minister would care to discuss that with us. It inclines me to believe that we should look very closely at the organization with a view to either starting afresh or taking other measures, if in fact this is to be a corporation basically of the owners.

[12:00]

Hon. Mr. Drea: First of all, Mrs. Campbell, everything I know about that meeting or the proceedings is second hand. I think I made this plain yesterday. It was my understanding that the letter and so forth were brought out to put it in a position of being placed on the agenda of the meeting.

Mrs. Campbell, I don't think my privileges were abused. This is an interim organizational board. It will shortly dissolve. I don't know if some of the people will continue on when you get a fully-elected board. Bear in mind, 48 or 45 per cent, whatever the industry representation is on there, are not elected, they are appointed. I would think, if they wanted to stay on, the insurance, the accountant and so forth, would remain.

It is my understanding that the board will soon be in the process of dissolving itself; by that I mean well before the end of the year, and the condominium people will be directly elected. My position all the way through, Mrs. Campbell, even though it is an interim board and it is somewhat difficult—while you were out yesterday I went to some length to describe it—

Mrs. Campbell: Sorry.

Hon. Mr. Drea: Prior to the actual organization of that interim board, I held meetings with them.

Mrs. Campbell: Oh, I heard that discussion; yes, I heard that.

Hon. Mr. Drea: Yes; and I told them, I told everybody, that if it was to be theirs, that day by day and as rapidly as possible, the minister was extricating himself all of the way. Otherwise it was gamesmanship to say that it wasn't the minister's.

I naturally have some concerns when there is a controversy, even on an interim board. I will say that my concerns have been reassured by the fact that the Etobicoke Condominium Association, notwithstanding the controversy, still feels so strongly about Condominium Ontario that they have requested in writing that they have someone in the vacant positions. There are two vacancies. I think one occurred when the person either moved from the community or went into another type of housing; it was a normal type of arrangement. They have asked for a position on that board. A number of other condominion organizations also have asked.

Even there, I want the board to make the decision. I understand there are some newly formed groups, in south-western Ontario and the Niagara peninsula, which were not really involved prior to this and never organized as individual corporations and so forth. So that, obviously, I have a responsibility to watch, as in the future. Indeed, yesterday a point was raised about a government representative on the board. That is quite standard, the same as with the HUDAC home warranty. There it is Mr. Ralph Lewis, a solicitor. He does not participate. He merely attends upon the board. I suppose if there were something totally wrong being done, that obviously he would caution them and bring it to the attention of the minister and the public, but it is not a governmental participation role.

Mr. Philip: I have a supplementary, Mr. Chairman.

Mrs. Campbell: Could I just conclude? I think the problem, though, that I was trying to raise, was that the person involved yesterday as a witness was still, notwithstanding—and I am not doubting for a moment your statement—that you consulted with the condominium owners as to the appointment—but nevertheless this was a person appointed by you. It does seem to me that with your philosophy of a corporation for the condominium people, that perhaps that philosophy is less than evident, in the mildest terms, in what happened in this case.

Hon. Mr. Drea: But I think it is very ironic that the man who moved the appointment, the man who moved within the corporation, was Mr. Littlefield. I find that ironic. But, Mrs. Campbell, you have to start from somewhere. If this were a fully-fledged board, I would agree with you.

Mrs. Campbell: I understand that.

Hon. Mr. Drea: If this were a board continuing for even some months in its present structure, I would share—

Mrs. Campbell: I am not critical of your procedures at all in the light of the legislation, that was not my thrust.

Hon. Mr. Drea: Oh, I'm sorry; then I didn't understand.

Mrs. Campbell: My thrust was that you have maintained this was a corporation for condominium owners, in a sense—

Hon. Mr. Drea: No, not necessarily.

Mrs. Campbell: Yes, you did.

Hon. Mr. Drea: The balance, the majority; the majority, yes.

Mrs. Campbell: All right; it was their organization.

Hon. Mr. Drea: Yes.

Mrs. Campbell: That was repeated more than once in my presence yesterday. What I think is causing the problem, both to you, with respect, and to the public at large and others, is that it should have been a person appointed by you, not a condominium person, who initiated this kind of procedure. That is all I am saying; I trust that is proper statement.

Hon. Mr. Drea: Mrs. Campbell, I just want to draw one thing to your attention. Anybody on that board who might have done it, anybody literally, for organizational purposes was appointed by me. Because when it went down to the companies branch, as to who the directors were it was over my signature. This is one of the problems; and I understand your point.

Mrs. Campbell: I think, with respect, you've missed my perspective.

Hon. Mr. Drea: No; oh, no.

Mr. M. N. Davison: I don't think it has been missed at all.

Mrs. Campbell: I just feel it is the crux of this embattlement that seems to have taken place. I would think that the minister should take this very much under advisement at this point in time.

Mr. Acting Chairman: Does that complete your question?

Mrs. Campbell: Yes.

Mr. Acting Chairman: Mr. Philip is next on my list.

Mr. Philip: I want to ask a supplementary on Mrs. Campbell's question, and on the min-

ister's answer. Before I do so, first of all let me assure the minister that my understanding from talking to the executive officers, at least a couple of them, of the Etobicoke Condominium Association—and I'll have an opportunity, since we're having a meeting very soon, to talk to all of them—that the request that the Etobicoke Condominium Association be on the board of Condo Ontario, is in no way to be understood by you as an acceptance of Condominium Ontario.

The mood expressed to me by one of the chief executive officers of that association, who was at our hearings yesterday, was that, "we better have someone on there, to find out and keep track of what those rascals are doing."

Hon. Mr. Drea: Mr. Philip, please, I will read you their letter, and I will read it into the record. It was not addressed to me, it was addressed to Condominium Ontario:

"Dear Mr. Batchelor, As was indicated to the Etobicoke Condominium Association on several occasions, both in writing and in person by the Honourable Frank Drea, it is understood that this association has assigned to it a seat on the board of directors of Condominium Ontario. With the vacancy created by the resignation of Terry Littlefield from the board of directors of Condominium Ontario, the Etobicoke Condominium Association is prepared to appoint a director to fill the seat assigned to us.

"Please advise the Etobicoke Condominium Association at the earliest possible time of the next meeting of the board of directors of Condominium Ontario so that we may send our nominee to take the seat on the board.

"Thank you for your consideration and assistance.

"By order of the association, L. Putans, secretary."

That was the correspondence.

Mr. Philip: I am glad the minister read that because it clearly doesn't give an endorsement.

Hon. Mr. Drea: I didn't say it did. I said they wanted to participate. But, Mr. Philip, I will have to discuss this preamble with them, where in the beginning—yes, because there were only seven organizations around, members of the federation, or six. Since they had participated very faithfully and were the only groups, the only ones by and large that had participated in the debates in the Legislature, or in committee even prior to my time—I'd like to check this—it was my feeling that, notwithstanding some criticism from other condominiums, either individual corporations or fledgling associations, that in effect, these were the people who should be the steering or the organizational committtee. On that basis, yes, they did have a seat assigned to them. But by the same token now, I don't think it's a permanent guarantee. I don't know what the board is going to do, because there are several organizations that have started up. I just don't know the answer.

Mr. Philip: So now that Mr. Littlefield has been purged from the board you are saying that the Etobicoke association may not get a seat back on that board?

Hon. Mr. Drea: Personally, I would support the Etobicoke Condominium Association coming back; personally. But as I say, there's a bit of a misconception in an "assignment." For instance the person who moved—was it from Durham?—Durham in the beginning had that; but this person has left. Now there are other groups of corporations that have started. I personally would support the Etobicoke Condominium Association coming back, but I just want to get rid of the thing that in the beginning, because there were only a limited number, you somewhat automatically got seat; but now it might be different. I think you can understand that.

Mr. Philip: I am sure it would be very convenient, I don't know that it would be different.

Hon. Mr. Drea: In the beginning—according to your thesis that somebody didn't like them, and I went through it yesterday—Mr. Littlefield came to me in a private way—I don't really want to go through it again. He thought maybe his previous position precluded him from it. I said "of course not." He didn't know, really, what to do. I told him, "By all means I think you should." As I said, spontaneously, at a subsequent time the other directors asked him this, so it's a wide open thing.

[12:15]

Mr. Philip: I find that very interesting and I will bring those remarks back both to the Etobicoke Condominium Association and to the local press who will be very interested in your remarks. In fact, you are not guaranteeing them that Etobicoke will now have representation.

Hon. Mr. Drea: No, no; please get it straight. Their letter said "was assigned." I think if you went to the corporation bylaws and so forth that are there, there is nothing that says a designation of a seat. Incidentally, there was a bit of a misconception yesterday that there were no bylaws. I think, in context, it was bylaws for the full

emerging organization. Obviously there were bylaws for the interim. I told you I would personally support it. What more you want from me I really don't know. I said I would personally support, without interfering; and I think my personal support does carry a little bit of weight in the current circumstances.

Mr. Philip: I want to go back to Mrs. Campbell's question, which I think was very relevant. I thought that she made an important contribution, particularly at the end of the debate and questioning yesterday. That is the letter of September 14 by Gordon Batchelor to Mr. Littlefield. This clearly is more than an information letter. It would be an information letter if it did not contain the middle paragraph, and I would like to read that into the record. This is the paragraph about which Mrs. Campbell expressed some concern. According to the testimony yesterday, unilaterally, without checking with any of the board members, Mr. Batchelor wrote a letter on September 14 to Mr. Littlefield. This paragraph is in that letter:

"I"—meaning I, Gordon T. Batchelor, president of Condominium Ontario—"I consider the information disclosed therein to indicate that you have done or committed acts or things prejudicial to the best interests of the corporation."

He was clearly writing as the president of Condominium Ontario; the notation as president was under his signature. That clearly has a weight which far exceeds that of being a board member who's expressing concern, or indeed of somebody who in this case might be acting in the capacity of interim clerk of the board or the corporation. What he did was express a personal opinion, he made a personal decision; first of all to send Littlefield the letter and a second to indicate that it was his position, as president, that Littlefield had in some way committed an indiscretion.

Hon. Mr. Drea: It is my understanding, Mr. Philip, and again it's second hand because it was the activities of the board, it was my understanding from yesterday and some of the other inquiries that I made, although not specifically on this, that Mr. Batchelor said he did not write this at the direction of the board, but after he had consulted with or asked or discussed it with people on the board; it was after those discussions that he wrote it, that was my impression.

Mrs. Campbell: I am sorry, he didn't say that. Quite clearly—

Hon. Mr. Drea: As I say, Mrs. Campbell, I don't want to put words in Mr. Batchelor's mouth. I have a reasonable recollection of what he said yesterday, but you must give me some indulgence as I have had some prior discussions. I thought I mentioned it. That was my impression, Mr. Philip. If you want me to get the exact chronology of what happened from Mr. Batchelor I would do so.

Mr. Philip: I think the minister has just demonstrated the reason a public inquiry was needed. Had the Conservative government House leader, your House leader, simply requested this committee to look into this matter, we could have brought them in under oath, or perhaps it wouldn't have been necessary since they are all honourable people, but we could have brought forth members of the corporation to clarify that kind of information. What we have from you is hearsay information at the present time.

I don't doubt that you believe this information is true; but I have other hearsay evidence from other sources, therefore we don't really know what is the truth. The very fact that your government decided it was not in their interests to have a public inquiry puts us in this clearly awkward situation. The only thing I can suggest to you is that perhaps you might ask your House leader to reconsider. If we did have a proper inquiry into the matter then we could bring forth the members of the original board. We could bring forth the staff people. We could inquire into the consulting company. We could bring forth witnesses in the same way we've done in other inquiries, and find out that perhaps one person is being a little less truthful than another through cross-examination.

I won't belabour the point, but I think the problem we're in is clearly your government's fault, not the fault of the committee.

I would like to point out that there are a number of things that did come out yesterday. One was an admission that certain people were hired without public advertisement; that's a fact. Another thing admitted was that the president of Condo Ontario wrote to Littlefield without any direction by a motion of the board, and expressed what was fairly obviously a conclusion of his, that Mr. Littlefield should be removed from the board or that he had acted in a manner prejudicial to the interests of the corporation.

The third thing that came out was that the meeting in which they dealt with the salary of the chief staffing officer, he is called

general manager, the discussion was not included in the minutes of the meeting of June 6.

Hon. Mr. Drea: I'm sorry, Mr. Philip, but I thought that Mr. Batchelor was very emphatic that it was listed as an appendix.

Mrs. Campbell: The agreement.

Mr. Philip: No, he said that the agreement was listed as an appendix. Another fairly clear matter brought out was that there were instructions by Mr. Batchelor and the corporation that the minutes of this corporation, spending public money, be kept private.

Hon. Mr. Drea: Not completely, no; they said they were not going to hand them out holus-bolus but they handed them to the individual directors; and the individual directors had discretion on how they used them. That was what he said; twice.

Mr. M. N. Davison: Mr. Chairman, with the greatest respect, when I asked that those minutes be tabled with the committee, and I asked that question of Mr. Batchelor on behalf of his board, he told us that the board did not want to make them public. And I asked, "Even to a committee of the Legislature"? Before there could be a response from Mr. Batchelor the minister jumped in and said we could have copies from him.

Hon. Mr. Drea: Oh yes, but that's not—

Mr. M. N. Davison: I think that's what the record states, and the record is very clear.

Hon. Mr. Drea: I didn't think that was what Mr. Philip was asking me. I thought he was asking about the dissemination of the minutes, not what came here. Well, tell me what you're asking.

Mr. Philip: I said that it was not made public, and Mr. Batchelor answered "yes."

Mr. M. N. Davison: Mr. Batchelor confirmed that.

Mr. Philip: As a matter of fact, Mr. Batchelor admitted that in one instance, when some of the minutes had made it into the hands of the press, and particularly into the hands of the condominium newspaper which is the only newspaper serving the condominium population, he personally took it upon himself to interview members of the board to find out who had released that.

Mrs. Campbell: Where the discretion does come, I think is a matter of interest.

Hon. Mr. Drea: Well that wasn't asked, Mrs. Campbell. What I'm saying is that they aren't public. That was very clearly stated. The individual director had them and the individual director—

Mrs. Campbell: Had discretion.

Mr. Philip: But if I exercise discretion, and every time I exercise discretion I go through an inquisition as to how I'd exercise that discretion, then clearly I have very little discretion.

Hon. Mr. Drea: Yes, but, Mr. Philip—excuse me just a moment.

My deputy has just advised me that in the Hansard yesterday, Mr. Batchelor said the board had directed him to ask who had given those minutes to that newspaper.

Mr. M. N. Davison: Do you have copy of the instant Hansard there?

Mr. Philip: No, it won't be ready until this afternoon.

Hon. Mr. Drea: Mr. Crosbie made copious notes.

Mr. M. N. Davison: Oh, I see.

Hon. Mr. Drea: I assure you.

Mr. Philip: The other matter that concerned me was the way in which Mr. Littlefield was forced from the corporation. Mr. Littlefield's views were very well known. He had expressed views that he was opposed to the concept of Condominium Ontario, that he preferred a registrar as outlined in the Kealey commission report. That was the position of his organization. He had expressed views that he was upset, or disagreed with, the individual levy. In serving his association, and as a guest of another assocation, he repeated those same views after he was a director of Condo Ontario and that became his indiscretion in the eyes of Gordon Batchelor and company.

The manner in which the ballot was used is extremely disturbing. I checked with Mr. Renwick and with a number of other corporation lawyers, including one working for the law firm of Rappaport and whoever—

Mrs. Campbell: "Whoever" is going to have privileges breached, I'll tell you.

Mr. Philip: She is a very distinguished counsel and her name will come to me two minutes after I've finished. In any case, I checked with another corporate lawyer, a transportation lawyer with whom you are well acquainted and who holds a very important post now in the transportation industry. All of these people said they knew of no way, in corporate law, this method of putting your name on the ballot was a usual practice.

I challenged on this Mr. Batchelor yesterday; and remember, one of his qualifications was—and I think Hansard will show this—was his great ability in understanding corporate affairs, that was one of the reasons he gave for his appointment.

Hon. Mr. Drea: No he didn't, I did.

Mr. Philip: All right, the minister did. Mr. Batchelor then said, "I really don't understand how these things work, it was counsel that had been given to me by a lawyer"—or words to that effect. I challenged him yesterday to show me anything under the Corporations Act. I read all the sections very carefully, and I went through with our very skilled legislative librarians to see if there might be some regulation I'd missed or something I was unaware of. None of us could find anything in the Corporations Act that in any way dictated this method of balloting.

It seems fairly clear to me, and to anyone who takes a rational look at this, the method of balloting which was sent out and which was used by Batchelor, and that Batchelor personally explained—not the secretary, not the clerk, but that Batchelor personally explained—the method was clearly a form of intimidation to the members of that corporation.

Mr. Williams: Point of clarification, if I might. My understanding is that Mr. Batchelor didn't consult Mr. Rappaport or Mrs. Whoever, he didn't consult—

Mrs. Campbell: Yesterday was "persons' day"; it's about time you remembered.

[12:30]

Mr. Williams: He didn't consult Mr. Renwick or other learned lawyers at corporate law but he did have a lawyer who gave him certain advice. You're attributing to Mr. Batchelor the fact that he had incorrect advice out of the Corporations Act when he was relying on professional counsel for it. You are citing Mr. Batchelor when I understand he had a lawyer there to give him that advice. In testimony he said he relied on his lawyer's advice at that time.

Mr. Philip: I am suggesting to you an elected politician, be he the minister or anyone else who serves in that kind of post, is responsible for the advice he receives. If he obtains the wrong advice it is clearly his problem, not the problem of his attorney.

Mrs. Campbell: The Attorney General (Mr. McMurtry) is in bad shape on that one.

Mr. Philip: Mrs. Campbell has pointed that out to the Attorney General on numerous times in the House that it is his problem he is getting bad advice.

Hon. Mr. Drea: Let's put it into perspective.

Mr. Philip: So Mrs. Campbell agrees with me.

Hon. Mr. Drea: Mr. Philip, I do not dispute in any way, shape or form any of the opinions given by any of the counsel whose advice has been solicited, but nowhere in the Corporations Act is there a prohibition upon the type of ballot and the type of procedure that was drawn up.

I could do what you did yesterday. You said yesterday to Mr. Batchelor show me something in the Corporations Act that says this is what you must do.

Mr. M. N. Davison: There is a big difference between what is and what isn't illegal. Is that what we are coming down to?

Hon. Mr. Drea: No, no, Mr. Davison. I'm saying it is a procedure that was entirely—

Mr. M. N. Davison: Not illegal.

Hon. Mr. Drea: No, no; you don't have things that are not illegal; they're either legal or—now that is what—

Mr. M. N. Davison: If you want to defend the practice that went on there go ahead. I find it—

Hon. Mr. Drea: Mr. Davison, I don't need free advice from you on what I am going to do, remember that.

Mr. Philip: I find it interesting that the minister defends what clearly is a form of the worst kind of abuse of a democratic process. It is a form of intimidation; I don't see how the minister can judge it any other way. If the minister does check the Corporations Act—and I don't have the right section here in front of me but I can find it for him, I have read sections of it yesterday in which it clearly provides for a way in which a dissenting opinion can be made. The procedure is that a vote is taken and it is assumed to be in the affirmative unless dissenters make their views known. That is the procedure that is outlined and that could have been done. That would have certainly been less intimidating to the board had that method been used. I cannot understand why someone would use so elaborate a device, that is not common practice, unless he had some motive for doing so. I suggest to you the only motive one can come up with is that he wanted to intimidate the board.

Hon. Mr. Drea: No, I disagree, Mr. Philip. It is quite correct, there was a motive, but the motive was to make sure there was a very orderly election.

I was curious, yesterday, because you said you had no further questions; that was my impression anyway. I asked what was the purpose of this signature on the ballot. The purpose of the signature on the ballot was that the ballots were going to be disseminated;

people were going to vote and then the ballots were going into the hands of a scrutineer. The signature was only to make sure they were the people eligible to vote. The signatures would never go beyond the scrutineer and the result would be tallied by the scrutineer. No vote was ever taken. The motive was for an orderly election.

Mr. Williams: No recorded vote.

Mr. Philip: Mr. Minister, with the greatest respect—

Hon. Mr. Drea: Excuse me, there was also to be a recorded vote—

Mr. Williams: And that was the way they confirmed who voted which way.

Hon. Mr. Drea: No, no; a recorded vote is your name goes beside it, just as it is in our committee.

Mr. Williams: That was the purpose.

Hon. Mr. Drea: That was the motive.

Mr. Philip: There are no bylaws that have been struck by this board that call for a recorded vote. Clearly if the purpose was to facilitate—

Mr. Williams: But—

Mr. Philip: If I may, Mr. Williams. I'll give you a turn if you want. Say what you want to say and then I might be able to get my point of view in.

Mr. Williams: Okay, I've said it. I thought you had let all your steam off yesterday; keep going.

Mr. Acting Chairman: You have the floor, Mr. Philip; proceed.

Mr. Philip: If the minister clearly believed the method was simply to make sure everyone voted or that no one got two ballots, then I would suggest he might come to an NDP nomination meeting. We found ways of doing that democratically without identifying the person who is voting.

Hon. Mr. Drea: Mr. Philip, please put it into perspective. The minister did not know about this. The minister found out afterwards. Please put it into perspective.

Mr. Philip: I don't doubt that.

Hon. Mr. Drea: Don't tell me to go to nomination meetings. I can recall certain nomination meetings. I recall in the centre of the city you got poor Mr.—not his riding but another place some years ago, perhaps before your time, Mr. Philip; there was some difficulty with your party holding an orderly nomination, including some events outside.

Mr. Philip: There had been some—

Mr. M. N. Davison: If we were to have a minister of democratic parliamentary reform, I know what party I'd like to draw him from.

Mr. Acting Chairman: Mr. Philip has the floor.

Mr. Philip: There have been a number of those in a number of parties. I'm simply suggesting to you—

Hon. Mr. Drea: Yes, but you suggested that—

Mr. Philip: I am suggesting to you that you can go to any democratic party, including your own, and find ways of taking ballots without doing it in the way that Mr. Batchelor did.

I'll simply conclude by saying the way in which this Condo Ontario has been managed, the amount of money that has been spent with very little visible results to date, the undemocratic, authoritarian way in which it is operated, the secretive way in which it is operated, and more particularly the way in which freedom of opinion has been stifled, clearly indicates that Mr. Batchelor is not doing a service to the minister or to his ministry or to the condominium owners or to the taxpayers. I suggest to you, Mr. Minister, that you would serve yourself well, and your ministry well, if you asked for Mr. Batchelor's resignation immediately. I think if you do some soul searching you will realize that would make you look good, the ministry look good, and it would make an awful lot of people happy. Thank you.

Mr. Acting Chairman: Thank you, Mr. Philip.

Hon. Mr. Drea: Do you want me to reply to that?

Mr. Acting Chairman: It is not necessary, Mr. Minister. The next on the list is—

Hon. Mr. Drea: I am going to anyway. I wanted to know if I should at this time or did somebody else have questions?

Mr. Acting Chairman: There is only one other speaker on my list.

Mr. Philip: Is the minister prepared to ask for Mr. Batchelor's resignation?

Hon. Mr. Drea: The minister is prepared to reply to that. Does somebody else have questions?

Mr. Acting Chairman: Mr. Davison is on my list.

Mr. M. N. Davison: No, go ahead and reply.

Hon. Mr. Drea: Mr. Philip, I have no intention of asking for Mr. Batchelor's resignation. Furthermore, Mr. Philip, I am going to direct these Hansards to the board.

You realize my peculiar position. I went through it yesterday and I don't want to waste time again today with it. I am going

to submit these Hansards, including that question. I don't think it is my prerogative necessarily. Certainly if there was any substantial evidence of something improper, yes. But this is a corporate board, and I am going to submit the Hansard in its entirety.

Even if in asking for that minute I am really violating something, I am going to get it. I'm going to clearly understand how I'm getting it. I'm going to send the Hansard down to the board.

Articles you are very prominent in—and it is sometimes difficult from the way the articles are written in the general press to know whether you have said it, I don't know—but certainly it is there that somehow Condominium Ontario is a front for me. I am willing to submit all of these.

Mr. Philip: I believe that it is the condominium people who have said that and not me, Mr. Drea.

Hon. Mr. Drea: I think there was a direct quote from you. I never really asked you if it was true. I presumed you were misquoted. I know you. I was interested in the politics—

Mr. Philip: I am rarely misquoted.

Hon. Mr. Drea: I don't really think you —there was something about the politics of the people that was quoted, but I don't even know—

Mr. M. N. Davison: Do we have a file on Mr. Philip there within the ministry?

Hon. Mr. Drea: No, no; this was because my name is in it. Somebody sent it to me.

Mr. Philip: They have one at the transport board.

Hon. Mr. Drea: I don't have one, Mr. Philip; I don't have a file on any members. As a matter of fact, Mr. Davison, you've complained to me more than once because I look in your file and find something.

Mr. M. N. Davison: No, no; it is Mr. Martel who says that all the time.

Hon. Mr. Drea: I don't have any files on anybody. You say here "Tory manipulations." I don't know of any politics, Mr. Philip.

Mr. Philip: If the minister—

Hon. Mr. Drea: Could I just finish and then you can reply? I want to make this all in one context so that it will be very easy for people to read in Hansard. I am going to submit all of these Hansards to the board of Condominium Ontario—probably improperly, I guess. It should go through somebody. I suppose I could do it through a board member but I don't believe in the niceties. I am going to submit it to their meeting and ask them to consider all of the things that have been said here over the past couple of days and to respond to me.

I don't want to burden them with the expense. I will pay for the cost of their response, presumably, since it will cover three or four hours now and it will be quite lengthy. The estimates will be over, as I think their meeting is on November 5. I don't even know the procedure. I'm not that good on parliamentary procedure, but I rely upon you, Mr. Breithaupt. I presume there's some method by which I can make that public in the records or in the House. I presume there is; I don't want to go into the details of it.

Mr. Breithaupt: I think the minister could make a statement or he could table his response in the House, which would formally place it in the public domain in my opinion.

Hon. Mr. Drea: That is what I'm going to do. On the other matter, Mr. Philip, I said that I know you and that I didn't believe that in the process of this you would get in "Tory manipulation." I know some of the directors of Condominium Ontario, because I had them at two or three or four or five meetings to get them organized. If I bumped into the other people today, I honestly wouldn't know them. Mr. Philip, I can assure you and through you every condominium group in Ontario that I don't know their politics. I never ask their politics. I don't even care whether they're hidebound to put me and the party I represent into unemployment. I never asked that in my life. I hope that nobody ever believes that. I don't know Mr. Littlefield's politics or anything else. I know him as a man or as a person.

Mrs. Campbell: I don't even know him as person. I maintain that judgement is obiter so far as it is applied to the males.

Hon. Mr. Drea: I don't want to get into an argument about that. I know Terry Littlefield.

Mr. M. N. Davison: If I just heard the minister right, he said that he is going to make a request to Condominium Ontario for a copy of a minute?

Hon. Mr. Drea: No, sir, I did not say that. Mr. Philip had asked me to ask for a resignation. I said I'm not going to ask for it. I said what I am going to do, in addition to that, since I'm in a peculiar position because this is not a crown agency, board or commission, is to take the Hansards, whatever they are, all of them, and I'm going somehow to put them before the board of Condominium Ontario at their meeting. The minister is not going to be there. I am

going to ask for a very detailed response. What I said I would do was—

Mr. M. N. Davison: I got all that. Did I not hear you say that you, as minister, would ask them for a copy of the minutes.

Hon. Mr. Drea: I said that yesterday, that one minute.

Mr. M. N. Davison: No, you did not. With the greatest respect, you did not.

Hon. Mr. Drea: Of course I did.

Mr. M. N. Davison: Let me review this with you.

Hon. Mr. Drea: I did.

Mr. M. N. Davison: I asked Mr. Batchelor—

Mr. Acting Chairman: Mr. Philip has a point of order.

Mr. Philip: I think the point has been made both by Mrs. Campbell and by Mr. Davison. What this committee clearly asked for was the minutes, which was in the plural, and we made that very clear. We want all of the minutes. I believe the minister yesterday agreed to that; so this is simply a misunderstanding.

Hon. Mr. Drea: I am sorry. You will have whatever you want, Mr. Davison, because it was said there that I rudely interrupted or something. I did. I said we could go through the niceties. I know that I did get a written legal opinion yesterday about corporate law, which was that probably the most proper way was to proceed through a Speaker's warrant. Nonsense! I'm not going to do that. I will take the responsibility and I will get it. But I just want it clearly understood that six months from now somebody isn't going to say: "Mr. Minister, you say you never interfere, but here are one, two, three or four where you did." I am doing that at the direction of the committee. Whatever you want you can have.

Mr. M. N. Davison: Do you have the minutes with you today?

Hon. Mr. Drea: No, I'm getting them.

Mr. M. N. Davison: You have them in your office, do you not?

Hon. Mr. Drea: Not in my office, no, I do not. Condominium Ontario is not in my office.

Mr. M. N. Davison: There is a member of the board who is a representative of the government, is that correct?

Hon. Mr. Drea: Mr. Lewis, yes.

Mr. M. N. Davison: Is Mr. Lewis a member of the staff of the ministry?

[12:45]

Hon. Mr. Drea: Yes, he is.

Mr. M. N. Davison: Does Mr. Lewis have an office in the ministry?

Hon. Mr. Drea: Yes, he does.

Mr. M. N. Davison: Does Mr. Lewis not keep his minutes of those board meetings within his office? What's the difficulty?

Hon. Mr. Drea: There is no difficulty. I told the board of Condominium Ontario to produce those minutes to me. What you wanted is the board to present them. They'll be here.

Mr. M. N. Davison: That is most certainly not what was arranged yesterday. That's what I was trying to get from Mr. Batchelor when you then interceded and said, "I'll get those copies before you." I assume that means the ministry has got copies of them and the minister simply has to bring them over from Yonge Street or wherever Mr. Lewis' office is.

Hon. Mr. Drea: I don't want to do it that way. I want those minutes from Condominium Ontario's own offices. There's a big difference in me supplying copies the government has and them having to produce them for public scrutiny by this committee.

Mr. M. N. Davison: I will wait until I have reviewed Hansard about what you said yesterday. I'm sorry I don't have a copy of Hansard now.

Hon. Mr. Drea: I said yes, I would get them. I'll get them. You'll have them next Wednesday. I had hoped to get them this morning.

Mr. M. N. Davison: What's the reason you're unwilling to supply us with a copy of the minutes from the ministry's office?

Hon. Mr. Drea: I'm not unwilling. You don't understand, I was trying to be helpful.

Mr. M. N. Davison: Are you going to supply the copies you've got?

Mr. Philip: Send the page or somebody and get them for us today. What's the problem? You have them in the office of the ministry.

Mr. M. N. Davison: I don't understand the distinction.

Hon. Mr. Drea: I directed Condominium Ontario yesterday to produce those minutes to me and I'll produce them here. They'll be here.

Mr. M. N. Davison: The committee can do that. The committee could have done that. I assumed what was happening was to make it quicker, to make it easier, the minister—

Hon. Mr. Drea: That's what I thought I was doing, Mr. Davison, I really did. It's

the last time I'm going to be helpful. Every time I get helpful it starts another controversy.

Mr. M. N. Davison: The ministry has a copy.

Hon. Mr. Drea: That wasn't asked of me. You asked if they would be produced. I don't want to belabour this. I thought I was being helpful and saving time. They will be produced.

Mr. M. N. Davison: Is there some difference in the copies that are in Mr. Lewis' office, and the copies—

Hon. Mr. Drea: No difference at all.

Mr. M. N. Davison: What does it matter which copy we get? Why shouldn't we get the ones we can get most quickly?

Hon. Mr. Drea: It doesn't matter which copy you get, they're all identical.

Mr. M. N. Davison: Isn't speed the—isn't it quicker just to bring the copies of Mr. Lewis to the committee?

Hon. Mr. Drea: I don't know if he has them available in his files or—

Mr. M. N. Davison: That's why I don't understand why they're not here today.

Hon. Mr. Drea: They will be available for you as soon as possible.

Mr. Philip: Just on the question of Tory manipulation, I think the minister will recall in the debates in the House I indicated political manipulation. I don't deny I've said that. It happens to be political manipulation by a government, and the government happens to be Tory.

Hon. Mr. Drea: Okay, in that context.

Mr. Philip: I have clearly indicated that. I clearly indicated, as has the Etobicoke Condominium Association, that the political manipulation consists of this: you have set up an organization which you are claiming is the organization of the condominium owners. It's fairly clear to me it isn't. It's also fairly clear to me, and I predicted it would happen, that the organization would be used as a buffer so you would not have to take responsibility for the shoddy way in which condominiums are handled and the problems condominiums are facing. You can pass it off on the condominium owners themselves by setting up a buffer organization that appears to be, or you would like to appear to be, their own organization. You imposed on the condominiums of Ontario an organization which they didn't ask for, and which the Kealey commission didn't recommend. I call that political manipulation.

Hon. Mr. Drea: Mr. Philip, it's a matter of record that six of the seven existing condominium federations supported the concept of Condominium Ontario the way it was passed. It's true that, as every piece of legislation has to be, it's a government bill, but it was supported in the House by a majority of the Legislature members.

Mr. Philip: Would you table information that shows that?

Hon. Mr. Drea: That it was supported in the House by a majority of the members?

Mr. Philip: That six of the federations, or the associations, in fact supported it?

Mr. M. N. Davison: I think it's unfair that you have maligned the Liberal Party.

Hon. Mr. Drea: They supported it to me in person.

Mr. M. N. Davison: While it's true my party supported, by way of amendment and vote, an alternate registrar proposal, the Liberal Party did express some concerns at the time about what might happen by going this route. I don't think it's fair to characterize with the simple word "support" the position of the Liberal Party, because it was a qualified support.

Mr. Acting Chairman: Are there any further questions on Condo Ontario?

Mr. Williams: Just one observation. I would hope that the minister is not only publicly stating that he would refuse to ask for the resignation of Mr. Batchelor, but also that he would make it clear that he continues to have, and in fact would reaffirm, his confidence in the capabilities and integrity of Mr. Batchelor in performing his duties.

Hon. Mr. Drea: Well, I think that's redundant, Mr. Williams, but if you want it, yes.

Mr. Williams: I think it turns the negative into a positive, if you—

Mr. Philip: Is that "yes"?

Hon. Mr. Drea: Yes.

Mr. Philip: That you will communicate to the board your support and confidence in Mr. Batchelor?

Hon. Mr. Drea: No, no. He's talking about —I am not communicating to the board at all. I told you I would ask the board. He asked me, as minister; I'm not dictating to the board.

Mr. Philip: What did he ask you?

Hon. Mr. Drea: Ask me again, Mr. Williams.

Mr. Williams: I asked if, in making the statement that you would not ask for Mr. Batchelor's resignation, if at the same time,

in your judgement, you have every confidence in Mr. Batchelor as to his ability to perform his duties as the chairman of Condominium Ontario.

Mr. Philip: The records show how he's changed his statement.

Hon. Mr. Drea: Well I don't know. I answered in all fairness. I'll put it this way, and maybe this will eliminate all this record. I have every confidence in Mr. Batchelor, period.

Mr. Acting Chairman: Thank you. Any question, Mr. Williams?

Mr. Williams: Just wanted to get that record clear.

Mr. M. N. Davison: Mr. Chairman, just one final question. Regarding the position of the Etobicoke Condominium Association and whether or not one of their members will be a member of the board, what guarantee do we have—I guess we don't have any—that this kind of thing won't happen again; that as soon as somebody is perceived to be critical that the whole bloody apparatus won't start up again and we're going to have Mr. Batchelor or other people coming down on somebody for trying to express an opinion. That bothers me a lot. Just between you and me, Mr. Minister, the Corporations Act, which I don't have memorized in my head, aside, that's not right.

I think in this society, when people have strong beliefs they should be able to say what they believe. It's just not acceptable in a corporation where by definition everybody has a conflict of interest because they are there as representatives of organizations, or because of their jobs, it's not acceptable that somebody like Mr. Littlefield, or the next representative of Etobicoke Condominium Association or indeed the next person on the board who opens his mouth outside of a board meeting should be come down on like a ton of bricks. That's wrong and it really bothers me.

Mr. Acting Chairman: Thank you, Mr. Davison. We have no further speakers on Condo Ontario. We'll hear Mr. Breithaupt on the vote.

Mr. Breithaupt: Mr. Chairman, this condominium matter, of course, has taken a substantial time, and it has been a most important discussion. However, I hope we will have the opportunity at least of asking a couple of questions on the other two items before us this morning. I might add at this point that it would appear that we'll have about six and a half hours left after this morning. Could thte committee therefore agree that on Wednesday, as we had suggested, we would do the rent review, vote 1508; and on Thursday the liquor licence, vote 1507. This would then leave us with something more than an hour left on Friday and we could do vote 1503, technical standards, in order to have time to have some questions asked on that point.

Mr. Acting Chairman: There's a problem with Friday, Mr. Breithaupt; we're meeting on private bills.

Hon. Mr. Drea: Mr. Breithaupt, could I have a bit of clarification from the committee? The way this has been drawn up it says liquor licence; I presume you don't want just the LLBO, you want the LCBO—

Mr. Breithaupt: The component parts of the vote, of course.

Hon. Mr. Drea: No, but the way it was put down was liquor licence board; I wondered if the committee had made other determinations, whether they only wanted the board or—

Mr. Breithaupt: I simply put down the program, which is called the liquor licence program.

Hon. Mr. Drea: Okay, fine; no problem.

Mr. Breithaupt: Could I ask for one other thing? On Wednesday, when we are looking at the rent review matter, could we allocate some time to review the aluminum wiring situation and the results and activity of the information service that is within your ministry?

Hon. Mr. Drea: Yes, sure.

Mr. Breithaupt: I believe there are some questions on the aluminum wiring.

Hon. Mr. Drea: I thought you were going to leave that until the last one?

Mr. M. N. Davison: Jim, I'm not sure I understand. Your schedule shows five and a half after today?

Mr. Breithaupt: Of course there's much more time left—

Mr. M. N. Davison: And it's going to be six and a half?

Mr. Breithaupt: I think it will be.

Mr. M. N. Davison: So would it not make sense, then, to do our regular Wednesday and Thursday next week as you've outlined, and then pick up a day the week after? I guess it would be Wednesday.

Mr. Breithaupt: We could clear up the aluminum wiring matter then.

Mr. Acting Chairman: There are seven hours left. We lost a lot of time on points of privilege.

Mr. Breithaupt: So we're going to have another session beyond next week in any event.

Hon. Mr. Drea: How can you have that, the points of privilege on Condominium Ontario?

Mr. M. N. Davison: We lost a lot of time because we didn't get the number of hours we'd hope to.

Mr. Breithaupt: In any event, next week we'll be able to deal with the Wednesday and Thursday program, and we can stand down the other matters to another day.

Just a question or two with respect to property rights. Of course we could go through the long involvement of whether registry offices are going to be closed, dealt with or whatever, but I do think it would be worthwhile for the minister to comment briefly on the registry office situation.

Hon. Mr. Drea: The registry office situation; I'm absolutely delighted. How many do we have?

Mr. Breithaupt: Sixty-six.

Hon. Mr. Drea: It is 65, at the moment?

Mrs. Campbell: We are not closing any.

Hon. Mr. Drea: We are not closing any. As a matter of fact, I said in the House that we are going to open one in Newmarket as soon as the courtroom space is available and the Attorney General does his legislation making the region of York a separate judicial district. I'm delighted you asked that, I really am.

Mr. M. N. Davison: Do you want some soap boxes to stand on?

Hon. Mr. Drea: No, it's a very valid question. There has been a great deal of uncertainty in the province. I spent considerable time this summer going to as many registry offices as I could. As a matter of fact, Mr. Davison, you'll be delighted that I took a special interest in Hamilton because of the pressures on that court house.

Mr. M. N. Davison: Right down in Hamilton Centre.

Hon. Mr. Drea: They'll be moving into the convention centre; I did all of that.

Mr. M. N. Davison: We'll be moving out of Hamilton Centre into Hamilton West.

Hon. Mr. Drea: I know there were some concerns in Hamilton because of the crowding in the courtroom and the demands. I have really made sure; I have had an iron-clad guaranteed on the new convention centre. The registry office and the land titles space are really in good shape.

Mr. Breithaupt: The other question I had to ask was with respect to the PPSR assurance fund. I notice in the recent statistical statement of the branch that as of December 31, 1977, $1.3 million was on hand; and by the end of 1978 this had grown to $1.7 million, almost. I wonder if there have been any payments from the fund, or whether any funds are earmarked for claims that may be expected. Is it the intention to keep these funds separated permanently? Is it the expectation that this growth rate of some 20 to 25 per cent a year is simply to continue forever? When will you have enough? What is the expectation on this fund in the next several years?

Mr. Rundle: My name is Tom Rundle and I am the registrar of personal property securities. The 20 cents per registration is currently being paid into the fund. The fund forms part of the general revenue and is not maintained entirely separately. The intention is to continue to pay money into the fund until a sufficient amount is there to ensure that claims can be met, if any. There have been no claims paid to date; there are no claims pending. There is a possibility of one claim that has been brought to my attention.

The reason that no steps have been taken to impose a limit on the amount in the fund at the present time is that we are considering repealing the Corporation Securities Registration Act, and having the Personal Property Security Act apply. In that event, the liability of the province could be materially broadened. Until that decision is made the decision is not to discontinue putting moneys into the fund.

[1:00]

Mr. Breithaupt: Your expectation is that the fund will simply grow until this other matter is sorted out one way or the other.

Mr. Rundle: I hope it will be resolved in the very near future.

Mr. Breithaupt: Thank you. That was the only question I had on that fee, Mr. Chairman.

Mr. Acting Chairman: Shall item 1 carry? Mr. Williams?

Mrs. Campbell: Mr. Chairman, while Mr. Williams is looking into this matter, I wonder if we could be assured that we will have the opportunity to hear from the minister on the matter of the Vital Statistics Act and the registrar general's position so that we might question the minister, or give some direction to the minister, if that is possible, in discussions at the federal level to try to clarify some of the problems we face.

Hon. Mr. Drea: It is my understanding, Mrs. Campbell, that the vote—I'm sorry, I

can't particularly see it here—on the registrar general was very clearly going to be held today.

Mrs. Campbell: Yes, I know. I just want to preserve that opportunity for discussion.

Hon. Mr. Drea: Would Wednesday morning be okay?

Mr. Breithaupt: That would certainly be fine with me. I would be content to carry this vote with the hope that we would be able to deal with any particular questions on the registrar general's operation first thing on Wednesday; that would be fine.

Hon. Mr. Drea: There was a commitment, I say this because the question was asked a week or so ago, there was a commitment from the ministry. There was a question about our not even bothering with it, that I didn't necessarily have to bring my staff. The staff is here. We have a new deputy registrar general. I call him the registrar; I'm only the guy who signs things. He is Mr. Pike. I want to say some words about Mr. Pike as well as about Mr. Vetere.

Mr. Breithaupt: Let's do that first thing on Wednesday.

Hon. Mr. Drea: Okay.

Mr. Williams: Mr. Chairman, I guess, the hour being one o'clock—

Mr. Acting Chairman: You have the floor, Mr. Williams.

Hon. Mr. Drea: Go ahead.

Mr. Williams: I would move item 1; that is program administration.

Mr. Acting Chairman: Proceed, Mr. Williams.

Mr. Williams: I'd simply move that and then move adjournment.

Item 1 agreed to.

On item 2, regional property registration:

Mr. Williams: I'd like to speak to that, but we are past the hour.

Mr. Acting Chairman: I don't see that we are past the hour, Mr. Williams.

Mr. Williams: I am moving adjournment, Mr. Chairman, it being one o'clock.

Hon. Mr. Drea: Mr. Williams, if I could help at all,—and I just said I was never going to be helpful again, I have visions of this boomeranging next Wednesday.

There was a consideration and this ministry outlined a list of schedules because of the scope of the ministry. There were problems in the past with people not getting on.

Mr. Acting Chairman: We had agreed to carry the first two items.

Mr. Breithaupt: Perhaps if Mr. Williams has a question or two he could put them, and then we could carry the vote whenever he is finished. There is no hurry. Let's get the vote done today if we can.

Mr. Williams: Do you want to go to item 2?

Mr. Breithaupt: We would like to complete the entire vote 1505.

Mr. Acting Chairman: We would like to complete vote 1505.

Mr. Breithaupt: If there are any questions, ask them now.

Mr. Williams: I think under item 2 it would be appropriate to inquire about the new Polaris program that you spoke of in the House yesterday, Mr. Minister. I think it is germane to the land registration system.

Mr. M. N. Davison: Haven't you already made a statement on Polaris in committee, on the opening day?

Mr. Williams: He made a statement in the House yesterday and I'm simply suggesting that now would be an appropriate time to discuss it.

Hon. Mr. Drea: It was here I made the statement.

Mr. M. N. Davison: Yes, in the estimates committee.

Hon. Mr. Drea: Yes, I did. I didn't go into detail on it.

Mr. Breithaupt: That's because we had nothing before us to deal with.

Hon. Mr. Drea: No, not with Polaris.

Mr. Breithaupt: I'm sorry, not with Polaris. You're right.

Hon. Mr. Drea: No, it's not a bill. I distributed copies to the critics and so forth. I know it is not glamorous, but I find it very exciting and the legal profession does.

Mr. Breithaupt: It's interesting.

Mr. Williams: I think it is of major interest and concern to everyone involved in real estate transactions and, I guess, to the legal profession in particular because of the ramifications and consequences of the program. I'd be interested in knowing if you are in a position to elaborate further on the development of that program, the timing on it, the cost of putting it into place and how it is going to be phased in.

Hon. Mr. Drea: Perhaps Mr. Peacock can help me and we will just do a scan on it. First of all, as I have outlined in a statement in the House yesterday, where I made some light reference to it, Polaris is the province

of Ontario land registration information system.

Mr. M. N. Davison: Not to be confused with the missile.

Hon. Mr. Drea: I think that this program will be much more effective than the missile or the Greek god ever was.

Mr. Breithaupt: A catchy title.

Hon. Mr. Drea: Yes. As I said yesterday, we are going to update the system. For those of us who are very proud of our Canadian heritage, I would say the present land registry system is one that was developed by John Graves Simcoe in 1795. It is the best system anywhere in the world and it has survived for virtually 200 years. The only changes that have been made over those years have been from the quill, to the nib point, to the fountain pen, to the ball point. We are still doing it manually. The problem now is that with the great volume of land transfers we have to do something or we will be in the position of having to close registry offices from time to time just to get abstract work done, with all the consequences to the public.

We are going to computerize the indexes and records maintenance, microfilm systems and document and plan storage, but people will be able to use the services over the full introduction period because it is not something where we can call a halt to business and say that in six months we will reopen it. We have to keep going. It will be phased in over a period of years and it will be first class.

Perhaps Mr. Peacock, in about the same time as I did, might like to tell you about some of the intricacies. The budgeting for the first year is $750,000. Incidentally, that money didn't come from the treasury, through new revenues and taxes; that was generated internally within the ministry as a saving.

Some people sometimes complain that we are doing something for the legal profession or the real estate people, but that's not so. Mr. Peacock may want to elaborate just a little bit about the heavy load of capital that is being put in very early and about the yield we will start to get immediately in terms of productivity. He may want to explain that to you very quickly.

Mr. Acting Chairman: Would the speaker identify himself, please?

Mr. Peacock: My name is Peacock, Mr. Logan, the project director, is here with us today and I think he can do a two-minute sketch more effectively than I can.

Mr. Logan: The Polaris project is aimed at modernizing all of the aspects of the land registration system. We have developed a series of five packages of improvements which would be implemented over a 12 to 15-year schedule. It would include looking at, analyzing and making some very basic changes to the legal framework of the system, but the primary emphasis is on introducing elements of automation into land registration which would ease the dependency upon the manual nature of the system and on the already crowded storage aspects of the system, which currently houses a large volume of paper.

We are looking towards the use of computers and some automated microfilm. Essentially, the first three years of the project are scheduled for detailed design, development and testing of all proposals. Then the remaining part of the time frame would be implementation throughout the province on a staged basis where we could bring it in slowly and effectively office by office and region by region in order to accomplish implementation of modernized operations without causing a chaotic situation in any of the daily routines of the office.

Mr. Williams: Is the system so designed—I understand you are proceeding with this program in consultation with the law society—is the system designed so they have assurances of what is being developed and with their approval? I believe they are, as I understand it, going to be holding some sessions or provide a forum whereby the members of the legal profession could have a much more involved look at the way in which the system is being designed. If that is correct I would like you to confirm it.

What I would like to know, however, just very briefly at the outset, is how will this affect the day-to-day operations of solicitors transacting real estate business in the registry offices? Will it be that with the computerized equipment lawyers will simply have to attend at the counter to ask for a certain title which will then be presented to them off a computer with a total title display before them so it will negate going through the laborious and repetitious searches of title that have been done in the past by lawyers?

Mr. Logan: Yes; generally, however, the use of computerization in the system will be rather low key initially, but the ultimate goal would be to have a total computerized operation. Initially, the computerization will cut down on the problems of handling all of the information behind the counter. The lawyer approaching the counter will still be dealing with people, not computers. You're right in your assumption that the purpose or goal is to be able to hand to a lawyer a file which is

representative of the file of information on the property unit he is in need of obtaining, so it would not require repetitive searching of the 40-year search nature which is currently done.

Mr. Williams: At the present time, while you have the microfilming process up to a point, such as in the land titles office where you can go in and read all the documents on your microfilm, it will now by synopsized on a card so the whole title presentation will be available to a lawyer making a search. Is that what you're saying?

Hon. Mr. Drea: It's all done in Hamilton, by the way.

Mr. Logan: Yes, ultimately it will be. Its immediate use is to expand these microfilms and to parcel the records in the system so individual property records will be kept as a unit.

Mr. Williams: There will still be the necessity for the lawyer to examine the individual documents that are of record and make a legal determination as to the effect they have on the legal title.

Mr. Logan: With the registry system, most definitely, yes.

Mr. Williams: I presume under the land titles system too.

Mr. Logan: Under the land titles, yes.

Mr. Williams: Right. I believe you said you were doing this in five stages.

Mr. Logan: In five packages of improvements which are staged but have definite links together. There is an interdependency between the five packages.

Mr. Williams: Following the minister's statement in the House, then, you're moving to stage one, or are you well beyond that in actual administrative development of the program?

Mr. Logan: No, we are moving to stage one right at the present time; plans are to begin it in the next fiscal year.

Mr. Williams: What, specifically, will we be looking forward to in stage one as far as public involvement, or at least that of the legal profession or any of the people in the real estate industry are concerned?

Mr. Peacock: My name is Peacock. The division has a permanent committee which includes broad representation of the practising bar. They have been involved over a period of two to three years with the development of the project to this stage. The law society now has a committee of their own beginning to do some work, or examine the program and project. It's our intention that at every stage there will be careful co-ordination with the law society, local bar associations, surveyors and the real estate groups. I think that having now got the project to the stage where it's set and ready to go we can really get working at that in a much more complete way. But certainly it's correct to say that the legal group particularly is even now pretty well informed on the substance of the project.

[1:15]

Mr. Acting Chairman: Mr. Williams—

Mr. Williams: I'm sorry, you wanted me to continue today and I'm prepared to carry on.

Mr. M. N. Davison: Take Mr. Logan and Mr. Peacock out for lunch; I think they would enjoy that.

Mr. Williams: I have questions I want to ask here.

Mr. M. N. Davison: We are past the hour of adjournment, Mr. Williams.

Mr. Williams: You have indicated that you want to go past the hour of adjournment and give me the opportunity to address myself to any matter under the vote. I'm taking advantage of that opportunity and I will continue.

Mr. Peacock, as I understand it, at the present time about 70 per cent of the real estate in Ontario is under the registry system and about 30 per cent under the land titles system.

Mr. Peacock: That is correct.

Mr. Williams: When the program is implemented, will that have any effect on that balance? I presume it will have no bearing, because they will be computerized whether it's land titles or the registry system.

Mr. Peacock: That is entirely correct.

Mr. Williams: So that means considerably more documentation still will have to be processed through the registry system and computerized.

Mr. Peacock: That is correct. However, it is also correct to say that the computerization of the system makes this information much easier to get to and much easier to deal with, so in effect the end result—it's not a new system so much as an improved system—is it begins to make land titles and land registry look very much alike, although as you have said, and quite correctly, it will still be necessary to deal with more documentation in the registry system.

Mr. Breithaupt: But it also encourages certification, which will move to shift that balance.

Mr. Peacock: Exactly.

Hon. Mr. Drea: That would come with or without this anyway.

Mr. Williams: Under the land titles system at the pressent time—

Mr. M. N. Davison: I do not see a quorum.

Mr. Acting Chaiirman: I do nnot see a quorum.

Mr. Williams: We will adjourn the debate and carry on the next day, that's all.

Mr. Acting Chairman: The committee stands adjourned until Wednesday at 10 a.m.

The committee adjourned at 1:17 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of Consumer and Commercial Relations



Third Session, 31st Parliament
Wednesday, October 24, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

WEDNESDAY, OCTOBER 24, 1979

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

The committee met at 10:06 a.m. in room 151.

Mr. Acting Chairman: I will recognize a quorum, order. The chairman has asked me to substitute for a while; he's going to be late this morning.

On vote 1505, property rights program; item 2, regional property registration:

Mr. J. Williams: Mr. Chairman, I didn't have an opportunity to conclude my inquiries with regard to items 2 and 3, in particular, under vote 1505 the other day before adjournment. So, for the next few minutes, I would like to raise some questions that really follow upon my general interest in the Polaris program which was discussed very briefly the other day, with only the fundamentals of it having been covered.

Following that, what I wanted to inquire about specifically, Mr. Chairman, through you to the staff, was how the land titles system is going to be affected by the introduction of the Polaris system. As I understand it, the ongoing Torrensization, if you will, of the system in Ontario will continue unabated. The fact that you're going to computerization has no bearing on the intent and purpose of the ministry, on a program basis, to broaden the base of its land title system in the province. Is that correct? If so, could you perhaps outline to me what pattern you're using in developing and broadening, the land titles system? Are you working in the less heavily populated areas first to bring the system into line?

I'm well aware of the fact, of course, that northern Ontario is virtually all land titles, although there are some isolated pockets of registry systems in the Sault, North Bay and Sudbury. Are you working systematically through the north and then down into the more heavily populated areas? I'm sure you've been asked this before, but could you review with the committee today, for my benefit, just how that's being developed?

Mr. Logan: I am Ron Logan, acting director of the Polaris program. The immediate thrust of the Polaris program is to automate both the land titles and the registry systems. The question of extension or conversion of all registration activity to the land titles base has been set aside until the automation of the actual operating aspects of the system is completed. There is no immediate plan to extend the land titles base in the province.

Mr. J. Williams: In other words, contrary to what I've suggested in my questioning, you feel the Polaris program will, in large measure, fill the role of the land titles system?

Mr. Logan: What is felt is that the actual operation of each of the systems, in terms of handling the volume of paper or documentation, will become very similar. The actual operations of the two systems will be very much alike and the cumbersome nature of the registry system will be considerably reduced. Once that is effected, we will have a better base upon which to judge the need or necessity of extending the base of land titles in the province.

Mr. J. Williams: I understand that the Polaris program will improve the mechanics of the system, but I don't see how it would minimize the fundamental advantages of expanding the land titles system as far as what is ostensibly a government guarantee of title is concerned, which doesn't exist under the registry system.

It is my understanding that the idea of a government-guaranteed system of titles through the land titles and the Torrens systems would be expanded eventually throughout the province. But, from what you're telling me, I gather you feel the automation of the two systems will minimize that need.

Mr. Logan: Not simply the automation; there is the matter of parcelization in the registry system which will make the records in that system much more accessible as individual units.

The other aspect is that the automation of and change in record keeping proposed will greatly simplify the task of extending the land titles—if that decision is ultimately made—and will have quite a substantial effect on the current estimated cost of conversion to a total land title system. It is very expensive.

Mr. J. Williams: So you feel that the Polaris program will have economic advantages too; that by streamlining it and reducing the amount of paperwork for the legal profession and other people, this is just cause for not accelerating the expansion of the land titles system at this time.

Mr. Logan: Yes; that's right.

Mr. J. Williams: You mentioned the other day that approximately 30 per cent of the real estate within the province is under the land titles system at this time. I think I've accurately pointed out in my questioning that the bulk of it is in the northern regions of the province, with some of the heavily populated southern Ontario areas also being covered by land titles. Am I correct that the bulk of that 30 per cent is in the north?

Mr. Logan: Yes, the land titles predominate in northern Ontario, but the ratio of the total number of parcels between northern and southern Ontario is considerably heavier in the south. So, in actual numbers of parcels, the volume is probably equal or higher in southern Ontario.

Mr. J. Williams: Because of the greater amount of real estate activity, of course. Yes, I understand.

What is the present experience of the land titles system with regard to claims that have been made against the assurance fund under the system in the past 12 months?

[10:15]

Mr. Priddle: The number of claims each year is minimal in number, ranging from zero to perhaps three or four. Probably at least 50 per cent of those relate to cases where a writ of execution has been missed, either because of a similarity in name that wasn't thought to be identical or simply because of a clerical error or oversight. In those cases, payments have been made to the execution creditors in cases where it can be shown that the omission on our part did jeopardize their claim or resulted in an inability to realize on the property.

The amounts paid out in cases of that sort are in the order of $2,000 or $3,000 each time. The fund was stabilized at $1 million in 1966, and only when the balance of the fund is reduced below that level is it increased. It has been increased only twice in that period, once by diversion of one per cent of the land titles revenue during the calendar year which resulted at that time in an increase of about $16,000. That amount lasted about five years. I think two years ago, it was increased by a payment from consolidated revenue of $50,000 in lieu of the diversion of a portion of registration fees. This fund is still substantially more than the $1 million. As of the end of March of this year, it was something in excess of $40,000 over the $1 million.

Mr. J. Williams: There is still a specific allocation set aside for the reserve to meet the assurance fund. I understand, in effect, it all comes out of consolidated revenue if the need exists. Is that not right?

Mr. Priddle: No. Initially, up until 1966, the fund was formed by the payments into the fund at the time of first registration under the Land Titles Act. The formula was one quarter of one per cent of the value of the land and one tenth of one per cent of the value of the buildings. There were maximums established at later dates, such as $200 in the case of land being brought into the system for purposes of subdivision. On that basis, through individual contributions and accrued interest, the fund reached the point where in the early 1960s—in fact, in 1961—it exceeded the $1-million mark. At that point the annual interest was diverted directly to the consolidated revenue fund.

Later, in 1966, the land titles survey fund was formed and the interest from the assurance fund now goes into the survey fund to subsidize surveys in several cases outlined in the act itself. The interest on the fund does not go back into the fund. Instead of collecting on the basis of the value of the land when it goes into the system—which I call a one-shot premium—the theory now is that the premium should be paid more in relation to the time and the risk that is incurred. That has to do with each subsequent registration.

The formula set up in 1966 would have required a percentage of the annual land titles general registration revenue to go into the fund to augment it.

Mr. J. Williams: I think you've identified the type of claims that arise—infrequently at that. Those types of claims don't concern me, because obviously there are more than adequate reserves to meet the type of claim you're talking about.

My concern is this: Although it didn't formerly, I think the act clearly covers matters of fraud and forgeries at this time. One who found himself dispossessed or not in good title because of a fraud that had been perpetrated could make claim against the fund. Is that not correct?

Mr. Priddle: The basis for making a claim has not changed substantially. There has been some minor clarification on it. Essentially, the fund is a dual-purpose fund; it could be

called an errors and omissions coverage and something equivalent to an unsatisfied judgements coverage.

Where a person is wrongfully deprived of land, or has some interest in it through the fraud or forgery or whatever of some other party, the primary right of the person who suffers the loss is against the person who caused the problem. If the person who suffered the loss on that basis is unable to recover what the act says is just by way of compensation, he can then make claim for payment from the fund.

Mr. J. Williams: You're suggesting they have to go through other recourses available to them, such as initiating civil action?

Mr. Priddle: That could very well be, if it's very clear who caused the mischief. As perhaps you know, under the act there is a relatively informal procedure for payment out, subject to appeal. In a case where we do pay out, the Queen, represented by the director of land registration at the present time, inherits the right of action to recoup for the benefit of the fund.

Mr. J. Williams: Yes, I understand that. On this matter of fraud and forgery, there are many types of claims that can arise with regard to real estate titles. The errors and omissions, where an execution has been missed—

Mr. Priddle: I didn't mean to suggest that was the only type of situation where claims are made and payments are made.

Mr. J. Williams: I understand that. What concerns me—and it's become more prevalent in recent times, although I don't think any more widely publicized than in the past—is that there appears to be an increasing number of claims arising not just in land titles but in real estate transactions generally involving fraud and forgery. A number of those instances have arisen and received public attention; in fact, they have perhaps given some concern to the business community, the investors and so forth.

In a fraud situation you don't have the usual remedies that are available if a lawyer has overlooked doing something, where remedial work can be done to minimize the financial consequences that might otherwise arise. In a fraud and forgery situation, you usually have a 100 per cent loss situation: Somebody obviously has gone out, with intent, and misappropriated funds by using someone else's name or whatever. In those situations, you can experience very substantial losses.

When you say to me the fund has a $1-million reserve, I think of commercial transactions that take place in this city; they usually start at $1 million. I believe in Mr. Davison's fair riding just within the past year and a half there was a noted case of some fraud having been perpetrated on real estate holdings that approximated about $900,000 before it was uncovered, and it received quite a bit of publicity.

Mr. M. N. Davison: Which fraud?

Mr. J. Williams: The one in the Hamilton area. I think it may have been in your riding. I'm not sure; I don't know your exact boundaries. It was on real estate property in Hamilton.

Mr. M. N. Davison: What was the case?

Mr. J. Williams: Some lawyers and realtors were dealing with a trust company and it was found there was some misuse of some funds. In any event, Mr. Priddle, I simply use that to illustrate my concern as to the adequacy of the fund to meet that type of situation.

Mr. Priddle: I recognize the point you're making. The liability of the fund is limited to the amount that is in the fund. There is an obligation placed on the government to maintain the fund at a minimum of $1 million. In theory that might result in someone not being fully compensated in a case where they clearly came within the provisions of the act; but to date none of that kind of claim has come forward.

In the other area, where the fund serves as an errors and omissions coverage, there has been to date some doubt as to whether the person who is suffering the loss through an error in the system had a right to be covered directly under the Proceedings Against the Crown Act. Through a correlationship between section 19 of the Land Titles Act, under which the officers appointed under the act are not personally liable, and the section in the Proceedings Against the Crown Act, where the crown is not vicariously liable for the tort of its servant in the case where the servant himself is not directly or personally liable, it was thought the party was barred from bringing an action against the crown. In Bill 150, now before the House, it will be clarified that he can sue the crown directly. I appreciate that doesn't cover your situation because yours is not the errors and omissions kind where the crown could be held liable. It's the act of the party to the transaction.

Mr. J. Williams: Right.

Mr. Priddle: But there has been no problem in that area to date. I also recognize that probably the nominal balance in the fund ought to be increased because of the ever-increasing values of properties and of the

very much increased number of properties under the system.

Mr. J. Williams: That's right.

Mr. Priddle: But at the same time there is no sense in becoming all worked up about it—

Mr. J. Williams: I am not suggesting I will become exercised about it, but I think you would agree that the incidence of risk increases dramatically because of the increased volume of transactions and the fact that any commercial transaction today probably starts at $2 million or $3 million. I think there have been more stateside recently than here, but there have been those incidents in Canada as well where there have been some very substantial losses arising out of that type of action.

Mr. M. N. Davison: Could you speak more slowly? The press is having difficulty getting it down.

Mr. J. Williams: I am sure they are, but they are shorthand experts and I am sure they can handle the situation.

I appreciate your clarifying that situation for me, Mr. Priddle.

Item 2 agreed to.

On item 3, legal and survey standards, and item 4, personal property registration:

Mr. Breithaupt: Mr. Chairman, I realize that both items 3 and 4 are most worthy of inspection, but I have no questions I will ask at this time on them.

Mr. J. Williams: I have a couple of questions, Mr. Chairman. I followed with some interest the matter of legal and survey standards. I believe this province is developing a new standard of land surveying that involves the use of the grid system currently in use in other provinces.

[10:30]

Mr. M. N. Davison: On a point of order, Mr. Chairman: When we originally started the estimates, the Liberal critic, Mr. Breithaupt, spent a great deal of time laying out what I think was a very good schedule. All the members who were interested in being involved in the estimates or in participating in the hearings of the justice committee were there at that time. We agreed as a committee that, with some revisions, we would follow Mr. Breithaupt's schedule.

Now the member for Oriole, who waltzed in at our last sitting day—

Mrs. Campbell: That is an unfair description. He cannot waltz.

Mr. J. Williams: That's right.

Mr. M. N. Davison: He pranced—

Mr. J. Williams: I can't prance either.

Mr. M. N. Davison: He pranced in at our last sitting day—

Mr. J. Williams: I strutted in.

Mr. M. N. Davison: —and went on for 20 minutes over the time on a matter that was on a vote we'd already agreed to deal with in a different fashion. He's now taken up I don't know how much time today on the same matter.

Hon. Mr. Drea: The first 10 minutes you weren't here; so add that on to what he took up.

Mr. M. N. Davison: I was in here. I went out to get a coffee because there was nobody else in the room when I came.

Mrs. Campbell: Do you mean he was talking when nobody else was here?

Mr. M. N. Davison: He's gone on for a considerable amount of time today on the same issue and now wants to take up the time of the committee on another aspect of this same vote. I understand the chairman has difficulty but I don't see how we're going to be able to keep to the agreement or the schedule to try to cover these things if members are going to do this.

Mr. Acting Chairman: There may well have been an agreement but we cannot rule an individual member out of order if he wants to speak on any one item. He has that right.

Mrs. Campbell: Wait a minute. Doesn't the committee decision have any bearing on how we proceed?

Mr. M. N. Davison: When I agreed to the agreement, I agreed on behalf of my party. My colleagues, as much as possible, have tried to keep to the schedule. I cannot any longer speak on behalf of my colleagues when members of other parties break agreements like this.

Mrs. Campbell: Other parties?

Mr. M. N. Davison: Another party; one member of another party. Therefore, unfortunately, it's not going to be possible for me or my party to continue. Otherwise, we won't have time to cover some of the more important aspects we wanted to in the remaining three days.

Mr. Swart: Mr. Chairman, on the point of order with regard to the scheduling: I think it was agreed—you can correct me if I'm wrong—that we would at some time have some debate on the report tabled by the minister on which his reply to me had been made. I think that was stated. I don't want a great deal of time but I do want some time scheduled for that, whether it is today or

tomorrow. I believe it was agreed that would be done.

Mr. Acting Chairman Mr. Williams, can you tell us how much longer you may be with the Polaris?

Mr. J. Williams: It's unfortunate that Mr. Davison got so exercised, because I think I would probably have concluded my questioning by now during the time he's taken up in making a point of order. I have to be in the Hydro committee this morning as well. I intended to take up about 15 minutes this morning, but through Mr. Davison's efforts it's extending into about half an hour.

I just had two or three questions on this item which I, as a member of the committee, would be entitled to ask as any other member; so if the staff is available I'd just carry on and just raise those two or three questions.

The concern I had was with regard to the survey system we have in Ontario, understanding that the ministry works very closely with the Association of Ontario Land Surveyors in developing and upgrading the system where it's deemed necessary.

I'm wondering if the ministry could advise the committee as to the current status in going from the conventional system of land surveying, which involves the use of astronomic or magnetic bearings, to the grid system; I guess it still involves that usage but in a more sophisticated manner.

I know the grid system of surveying is used extensively—I think in the Maritimes now it is used more extensively than anywhere else. It seems to have been quite successful in resolving a lot of problems related to indefinite boundary lines and property definitions. I understand it's a surveying technique that has received a lot of favourable interest and concern from your ministry. Could you indicate what the situation is at the moment?

Mr. Seawright: Yes. The Ontario co-ordinate system was introduced in the province in 1969. There is no compulsion to use the system to date. Surveyors on an individual basis, or as required by their clients, are increasingly using the grid system to control their surveys.

Mr. J. Williams: I certainly wasn't aware it was in any way mandatory to use the system, but is the view of your department not to encourage the use of the grid system? Is it not a more accurate and reliable system than the conventional systems that have been used to date?

Mr. Seawright: Yes, we certainly do encourage use of the Ontario co-ordinate system when suitable monumentation is available. One of the problems is that there are very few co-ordinate stations established in Ontario.

Mr. J. Williams: How would that deficiency be remedied? Is the surveyor general at work in putting this together?

Mr. Seawright: As always, I think the answer to that is financial. I certainly can't speak for the surveyor general. Certain ministries such as the Ministry of Transportation and Communications have established, I think, approximately 20,000 co-ordinate stations.

Mr. J. Williams: They exist at present, you mean?

Mr. Seawright: They exist, yes.

Mr. J. Williams: Is it an indefinite number that would have to be established to bring that system into full use, or is there a quantitative number that can be identified that would have to be added to the system to give you the total coverage you'd need to put the system totally to work?

Mr. Seawright: To make the system usable for legal land surveys requires a certain density so that the surveyor wouldn't have to go beyond a certain distance to reach the point. One could speak of levels of surveys. The federal government is primarily responsible for the first level, which establishes stations about every 20 miles. It's taken to be a provincial responsibility to establish any density beyond that. A density of about 1,500 feet is required to relate legal surveys.

Mr. J. Williams: Whereabouts in Ontario is it being used to any degree? I find it interesting you say they're encouraging surveyors to use it where possible and in fact some are using it. I haven't run across the situation myself. I have occasion to see survey work that's done in various urban communities around the province, but I haven't seen it in use as yet in Ontario to any extent.

Mr. Seawright: The system is used extensively in Metropolitan Toronto, in the National Capital Commission, and in the major centres throughout Ontario as well as even some of the smaller ones. In many cases the stations were established on a co-operative basis between the federal government and provincial authorities.

As I mentioned before, the Ministry of Transportation and Communications has extensive networks of control stations along the major highways throughout Ontario.

Mr. J. Williams: I guess my last question then would tie in with the position of the Association of Ontario Land Surveyors with regard to use of the system. Is this one that

is being encouraged by the executive to all members of the land surveyors' association, that they utilize to a greater extent the grid system where the co-ordinates are available to them or the reference points?

Mr. Seawright: The Association of Ontario Land Surveyors has recognized the benefits of the Ontario co-ordinate system at least for the last 10 or 15 years. They're encouraging its use whenever they can.

Items 3 and 4 agreed to.

Vote 1505 agreed to.

Mr. Acting Chairman: The minister has an answer to Mrs. Campbell's question regarding dog fighting.

Hon. Mr. Drea: Mrs. Campbell, even though she recognized it is not my jurisdiction, asked that I obtain certain information for her on dog fighting. There is a brief, which I am trying to get, which was prepared by an inspector of the Ontario Humane Society. He has to get clearance from his board before submitting it. He provided us with information to the effect that dog fighting—although there is very little evidence, in the evidentiary definition, that they can rely upon for prosecutions—is much larger than people would expect. I draw to your attention that it is an international problem. This particular inspector was incidental in a major arrest in Texas, where 169 people including two from Ontario, were taken into custody, and in Stoney Creek, where there were 10 dogs involved in that night's program there. Also, there was a related arrest in Cayuga.

One of the things that concerns the Ontario Humane Society is that there is illegal alcohol consumption; in other words, they bootleg there, and I don't find that surprising. Apparently there is also some drug trafficking in connection with these events, as well as, obviously, the question of dog fighting, which is prohibited, as you know, under the Criminal Code.

There is evidence that groups are chartering planes from here to participate in or to be spectators at major events in Texas and Mexico. There is some evidence that dogs from Ontario participate in those events there.

It may be of interest, and I attach this, there is an ad that runs daily in the Toronto Star about fighting dogs. "American pit bull terrier pup. Most courageous dogs alive. As seen on Little Rascals," and then they give phone numbers. That apparently is the phone word for a fighting dog. That ad runs daily.

The Toronto Humane Society feels there is some evidence of a new type of dog fighting emerging, where owners pit their dogs against each other individually rather than on the nightly type of program or whatever, somewhat akin to cock fighting, where there are a number of events and so on. They find great difficulty in prosecuting this, because when they send inspectors to see a dog the owner says he is not really the owner of this dog; he just took the dog in because it was hurt. The humane society, for rather obvious reasons, has some difficulty in ascertaining at what point the person became the owner of that particular animal.

Mrs. Campbell, I don't think the Ontario Humane Society, when it has its board meeting, will have any objection to providing that brief. I will get that to you. Mind you, this is a somewhat fragmentary report, but you want it rather quickly.

On the basis of this, while it is not within my jurisdiction, apparently the whole issue of dog fighting for profit in a spectator sport has been dumped on me. I am going to have some consultations with the humane society and the Solicitor General, under whose ministry this falls, and I will report back to you. Meanwhile, I will try to get the brief for you.

[10:45]

Mr. Lupusella: I too would like to raise my particular concern about this serious problem. It is a serious problem, particularly in Metropolitan Toronto. In my area, I was advised by a lot of residents that a dog had attacked five children; in fact, that was an issue I was going to raise in the estimates with the Solicitor General. I am happy to hear that we are going to initiate this consultation in order that something is going to be done.

There were serious injuries involved in these five attacks. The police got involved, but there is no way the case can be brought before the courts. I am talking about serious injury, and I want to emphasize that. There was also a woman who was attacked and suffered a heart attack as a result of that.

We need legislation. The regional municipalities are not taking the responsibility, since there are no particular bylaws addressed to this particular problem. Everything is left to the discretion of the humane society. I think it is time that the province showed some sort of leadership, at least to penalize the irresponsible owners of vicious dogs.

We are talking about children being seriously injured as a result of these attacks. The municipality is not initiating any particular action. The province has a duty to do so. I hope the minister is going to undertake this particular task, to initiate conversation and discussion with the ministers involved in

order that the province does something about it.

By the way, I was going to refer the particular case affecting my constituents to the Solicitor General, because there is no way the owner can be brought before the courts. I hope you are going to confer with him as soon as possible.

Hon. Mr. Drea: Mr. Lupusella, in your case I don't know what kind of a dog it was, but we were talking about dogs that are specifically bred to fight other dogs in a ring. It is my understanding that the Attorney General is moving on the matters that you have raised, and I will convey your remarks. If memory serves me correctly, and perhaps Mr. Sterling can help me out, doesn't it require a change in legislation by the Attorney General in order to be enforced by the Solicitor General?

Mr. Sterling: Yes. The Attorney General has been looking into it for at least the last six or eight months, and it could be longer, in relation to the problem that has been brought up by the member.

I also could indicate to the committee that the Attorney General—I don't know whether it is his function as Solicitor General or not—has been consulting with the humane society in dealing with the issue that was raised by Mrs. Campbell in relation to dog fighting. I know he is quite supportive of their function and hopes he will be able to support them further in trying to arrest this problem. It is not an easy problem. The law is there, but it is a matter of prosecution and how to do that better.

Mr. Chairman: Mr. Sterling, as I understand the Ontario Humane Society's position—I recall the information which it sent to me but I don't have it here—Tom Hughes was claiming that it was also a problem of not having enough investigators and that he needed additional funds to be able to have officers out in the field to lay charges.

Mr. Sterling: That's specifically what I referred to a few minutes ago in terms of the Attorney General or the Solicitor General. I am not sure which one funds it.

Hon. Mr. Drea: Some of Mr. Hughes's funding comes from the Solicitor General.

Mr. Sterling: As I was saying, the Attorney General is very sympathetic towards that request and, at this time, is trying to obtain funding for additional inspectors or investigators to help address the problem.

Mrs. Campbell: So far as Mr. Lupusella's remarks are concerned, I presume we're moving to remove the doctrine of the first bite.

Mr. Sterling: Yes. I think that's basically what the Attorney General has in mind. I was hopeful that we would be able to get a piece of legislation this fall in relation to that particular matter.

Mr. Lupusella: I hope that legislation is going to be enacted as soon as possible. I got in touch with the Toronto city hall. They are blaming the province for the fact that there is no clear legislation to regulate this type of problem. I guess it's time to move as soon as possible.

In my particular case, it is not a matter related to investigation. The investigation has been done. Five children had been seriously injured, and the owner of the dog is just laughing at the police and the victims. This is really a serious case.

Mr. Sterling: I don't know whether the legislation we're talking about deals with civil or criminal liability. Criminal responsibility is under federal jurisdiction.

Mr. Lupusella: It is criminal negligence as far as I am concerned.

Mr. Chairman: I am sure the minister would like to speak to a couple of victims. The minister who is sitting beside me now was one of the victims.

Hon. Mr. Drea: I never get mad at the dog.

Mr. Chairman: I have a thigh with the scar of a German Shepherd in it. I would be glad to share the experience—not physically but information-wise.

Mr. Sterling: I just don't want anyone to believe that any legislation is going to solve the problem totally. You can deal with civil liability so that an owner who has a dog that is vicious and attacks someone will be responsible for the damage caused. That may not take care of the real problem of that attack ever occurring. Hopefully, it will deter people from owning that kind of an animal.

Mr. Lupusella: As far as I'm concerned, if clear legislation is going to be enacted, at least the owner of the dog should become more responsible for its action. The question of ownership of the dog is something that should be determined by the legislation. At the moment, there is no way you can take a particular case before the court, because a game is going on about the ownership of the dog. The son will say, "My father is the owner," and vice versa.

Mr. Chairman: I think we have dealt extensively with a matter that is not directly under this ministry. I would like to move on.

Mr. Swart: I want to make a very brief comment on the matter raised by Mrs. Campbell. I want to state categorically that both I and this party will support any measures that can be brought forward to ensure that dog fighting is eliminated. Apparently, there is some evidence to show that people who promote these kinds of things and even people who are spectators carry that kind of violence into the human race. It just heightens that. I feel we have to deal strongly and severely with it.

Hon. Mr. Drea: I don't want to belabour it. I was going to say that if people want to put two animals into a pit together, as in cock fighting and dog fighting, there's an element that goes there that says, "What do we care?" The problem is that those types of things really do attract the extremely weird in society.

Mr. M. N. Davison: The cult of violence.

Hon. Mr. Drea: It is not just violence; it is the very weird too.

Mr. M. N. Davison: Even the Legislature attracts the weirdest people.

Hon. Mr. Drea: I don't mean to snicker at this. I'm very serious about it. This produces an element in society that is weird by my definition and gets their attraction.

Mr. Swart: But it escalates.

Hon. Mr. Drea: It escalates. That is quite right. That bothers me too.

The other difficulty—and we might as well lay all the cards on the table—is it is extremely difficult to get evidence; It's almost akin to the old prizefighting of 100 years ago, where it was held at a relatively secret site. But I am going to consult with the Attorney General. There are things in the report which I did not give to Mrs. Campbell—I will discuss them with her privately—and which give me even more concern on the matter as to just who was involved.

Mr. Swart: Mr. Chairman, may I raise a point of order? I believe there was some time to be allotted to discussion of the report that was tabled by the minister as a result of the argument put forward by—

Hon. Mr. Drea: That is to be next Wednesday, I thought. The committee has private bills on Friday.

Mr. Chairman: I think we had the agreement of the committee that there were a number of items which at the end could be brought back. Even though some of them might not technically fall into the last vote, we could deal with some of those items and tidy them up.

Mr. M. N. Davison: Perhaps the clerk could be of assistance to us. I probably lost track of the number of hours we've spent on estimates. Is this an unfair question?

Mr. Chairman: No. There were six hours and 41 minutes when we adjourned on vote 1505.

Mr. M. N. Davison: So that should leave us something over an hour.

Mr. Chairman: We subtract an hour from that; so you have roughly five hours and 41 minutes left now.

Mr. M. N. Davison: A week today that should leave one hour.

Mr. Chairman: Or more.

Hon. Mr. Drea: Tomorrow is not a good day for time.

Mr. M. N. Davison: May I make a suggestion? If today or tomorrow we finish either the rent review vote or the liquor licence vote before the amount of time we set aside expires, we might use whatever time is left in each of those days to pick up on a few of the points.

On vote 1506, registrar general program:

Hon. Mr. Drea: I hate always to do this, but before we start Mrs. Campbell asked for something very specific. Do you want me to read that into the record now? She wanted it read into the record, or do you want to start, Mr. Breithaupt?

Mr. Breithaupt: Go right ahead.

Hon. Mr. Drea: She wanted me to get a report.

Mrs. Campbell: I am sorry; it related to the third report of the Ombudsman. I hope that Mr. Davison will find it in order. We needed to clarify it.

Hon. Mr. Drea: I have great pleasure this morning, as I mentioned on Friday, to report that we now have a new deputy registrar general. Technically, I am the registrar general, but I always regard the person in charge over there as the real registrar general. He is Mr. Pike.

Mrs. Campbell: Will the real registrar general stand up?

Hon. Mr. Drea: You get my signature but he does all the work. Mr. Pike succeeds a person whom I happen to think brought all the best to the public service, Mr. Vetere. In his years of service as the deputy registrar, Mr. Vetere certainly streamlined and improved customer service to the extent that

it is. It is with regret that Mr. Vetere chose to take early retirement. I wish him well. Certainly, the public service was enhanced by his presence. We hope that whatever he does in the private sector, which will be of his own choice if he does decide to do some work now and then, will be enhanced by him too. I say that without any apologies now that Mr. Pike is here.

Mr. M. N. Davison: I would like to say a word about Mr. Vetere too. Mr. Vetere is one of my favourite civil servants. I had the opportunity to chair the Ombudsman committee not too long after I had arrived here. One comes with the image of the grey bureaucrat. Mr. Vetere was anything but that in his sessions before that committee. He is one of the most interesting and lively people it has been my pleasure to meet in government. Like the minister, I'm sorry to see him go, but I trust he enjoys his early retirement.

Hon. Mr. Drea: We are absolutely delighted that Mr. Pike now is the deputy registrar general. I think you will find that Mr. Pike will enhance the operation, as did Mr. Vetere, particularly since we are going to automate it and make it much easier for people to deal with.

[11:00]

Mr. Breithaupt: Certainly, Mr. Vetere, in the development of that office, has been responsible for moving it from what it had been in its very earlier traditional days right into the 20th century. When one looks at the statistics of this operation and sees that some 500,000 items are dealt with each year, that works out, I suppose, to better than 2,000 on a working day. In terms of the co-operation that members have all received for quick resolutions of passport requirements or registrations, birth registration certificates and all of the other immediate things that are asked for and provided quite cheerfully and immediately, the operation of the office is indeed of the best standards that one could possibly hope for, both under the newly retired deputy registrar general and under his successor. I believe that the province and the people of Ontario are well served by this particular aspect of the civil service.

Hon. Mr. Drea: I would invite the members from time to time, if they do have any spare time or perhaps during the off legislative period—

Mrs. Campbell: What spare time?

Hon. Mr. Drea: I said if you have any.

Mrs. Campbell: I know.

Hon. Mr. Drea: But during the off-time it is worth perhaps the hour or so to go over to the office in the Macdonald Block. They will be very glad to show you some of the inner workings. I do a little bit more than suggest, I urge.

You know, we live in a day when the public servant is being constantly looked down upon. If you could get over there, you would see the difficulties those people face just in the ordinary course of the day, especially with older people because of changes in federal laws requiring them to get birth certificates that they never needed before. Last year, for instance without great fanfare, when the federal government said they would give rebates to those on mother's allowance, they all had to get a social insurance number, which meant they all had to get a birth certificate. They had about 24 days or they didn't get the money. Nobody lost their money in Ontario. And yet they carried on with the other business.

That office is one of the unsung heroes of the public service. Perhaps we in the Legislature take it for granted that we can always get a birth certificate, a passport or something for somebody, but a great deal of work goes into it.

Mr. Chairman: I am sure the clerk of the committee will be willing to forward a copy of today's Hansard to Mr. Vetere—and perhaps to Mrs. Vetere; she will not realize exactly how lucky we have been.

Mr. Breithaupt: I don't think I'd force Mr. Vetere to read about the survey problems. Perhaps we can send an expunged version.

Hon. Mr. Drea: Mrs. Campbell asked me to report back on the report of the select committee on the Ombudsman and comments they had made about the office of the registrar general.

I am going to read this in total because she asked for that. "The select committee on the Ombudsman is not satisfied with the ministry response to recommendation 18 of its third report which read: 'The Minister of Consumer and Commercial Relations introduce legislation clarifying and defining the status of persons affected by the sex designation change and the proposed amendment to the Vital Statistics Act so as to avoid the creation of a third category of persons in the province of Ontario.'

"In 1976, the office of the Ombudsman conducted an investigation into a problem a transsexual had with respect to the designation of sex on his birth certificate. The complainant had not been able to have his designation of sex changed following the surgery. The Ombudsman determined that

the registrar general had acted properly in not changing the designation of sex but recommended that the Vital Statistics Act be amended to 'enable a Registrar General to change the designation of the sex on the registration and certificate of birth of those persons who have undergone transsexual surgery so that the designation will be consistent with the results of the transsexual surgery'. This recommendation was carried out in the Vital Statistics Amendment Act, 1978.

"In its review of the Ombudsman's recommendations, the select committee of the Legislature on the Ombudsman appears to have gone further than the Ombudsman. The select committee expressed concern about the legal implications of the transsexual operation. In its fifth report, the select committee stated that 'the government has a duty to the extent that is within its legislative competence to clarify and define the status of these individuals, transsexuals, under the laws administered by the province. Additionally, in the committee's opinion, the province has a duty to prevail upon its counterparts in the federal government to enact legislation on a Canada-wide basis, removing any doubt or uncertainty in respect of the legal status of these individuals.'

"The matter of the legal status of a transsexual is a legitimate issue. There have been a few academic articles setting out the legal implications of the transsexual. However, to the best of recollection, the articles do not indicate any jurisdiction where there has been legislation establishing the legal true sex of a transsexual. There have been judicial determinations involving the true sex of a transsexual. The cases either put emphasis on the pre-operative hormonal, gonadal and genital criteria of the individual, or else stress the psychological sex and post-operative genitalia of the individual.

"The leading English case of Corbett versus Corbett (Ashley) (no. 2) (1970) 2 All ER 33 took the former route. Decisions in the United States have gone both ways. There have been no Canadian decisions so far on the issue.

"There would be difficulties involved in enacting legislation at the provincial level. Certainly it would come within the jurisdiction of a province to enact legislation saying that for the purpose of the law in Ontario, a person who has undergone a transsexual operation shall be considered to be a person of the post-operative gender. However, this still would not be a determination of his or her true sex for all purposes. The province enacting legislation on its own could conceivably leave a transsexual as one sex for certain matters and another sex for matters within federal jurisdiction.

"On the all-important issue of sexual status for purposes of marriage, there is little doubt that determination of an individual's capacity to marry lies within federal jurisdiction as a power enumerated in section 91(26) of the British North America Act. Provincial jurisdiction is limited to essentially the rites and ceremonies involving the solemnization of marriage.

"The issue of the status of a transsexual first arose in relation to the eligibility of a transsexual to marry a person of his or her former sex. The deputy registrar general pointed out that if this situation came to his attention in his functions under the Marriage Act, he would refuse to issue a marriage licence to the persons involved on the grounds that the validity of any such marriage was suspect. This statement raised the issue of the legal status of the transsexual. The position taken by the ministry is that under the Vital Statistics Act it has gone as far as it can go in relation to transsexuals. The office of the registrar general is strictly an administrative operation involving the registration and collection of specified information and data. It is not the type of legislation that affects legal rights or status.

"In fact, in his introductory statement accompanying first reading of the bill which became the Vital Statistics Amendment Act 1978, the Honourable Larry Grossman indicated the amendment was intended to facilitate the transsexual's transition to his or her changed circumstances. He added, 'We are not stating that the legal status of a transsexual has been changed. This is a matter for the courts and there is no Canadian precedent for it although, according to British and US decisions, the status of the individual is not changed.'

"It still seems reasonable that a test case should be brought before the courts involving the issues of true sex of a transsexual to determine whether any legislation is necessary.

"A canvass last year by the deputy registrar general of other provinces which had made legislative provision for the change in sex designation on birth certificates indicated that there had been no substantial problems resulting from the passage of such legislation.

"On the issue of a marriage involving a transsexual, the ministry policy is that if the issuer of the marriage licence is made aware that an applicant has undergone transsexual surgery, the issuer must consider implications and may refuse to issue the licence. In that

case, an applicant may appeal to the Supreme Court for judicial review and a determination will be made on the individual's right to a marriage licence.

"From a practical point of view it is highly unlikely that the issuer would be aware of the fact that the individual has undergone transsexual surgery as a birth certificate is generally accepted at face value. It is not the policy of the ministry tto pursue individuals with a view to preventing them from marrying, nor shall the ministry, through the use of local registrars, attempt to do so. However, it is in the best interests of transsexuals to obtain advice as to his or her legal sexual status or capacity to marry should marriage be contemplated and, if necessary, have the issue determined by the courts and, if required, by legislation.

"Moreover, any provincial involvement would come from the Ministry of the Attorney General, not the Ministry of Consumer and Commercial Relatioons."

Mr. Chairman: Since there's an obvious interest by not only members of the committee but also the press, I'm going to ask the clerk to get some extra copies and we'll distribute them.

Hon. Mr. Drea: We also have—and I don't know whether you want me to read from this—a volume here called Nullity of Marriage in Canada with a Sideways Glance at Concubinage and its legal consequences, by H. R. Hahlo. On page 10, there is quite a lengthy—

Mr. Chairman: Why don't I just have that photocopied and distributed too?

Hon. Mr. Drea: All right. It's quite a lengthy dissertation on identity of sex for marriage purposes.

Mrs. Campbell: Since I raised the issue really pursuing the recommendations of the Ombudsman's select committee, having still regarded this as a recommendation which had not been satisfactorily answered, I would like first of all to express my appreciation to Mr. Crosbie for forwarding this information. Obviously a great deal of care has gone into the preparation of this report.

I would just like to say this: I guess I have a very distinctive view of justice somehow. In reading this, there is a certain sense of chill in that it is open to a different treatment for different people, the way things stand at the moment. In other words, the ministry assures us—and I accept that assurance—that there would not be any questioning on the matter at the time of an application by an individual. But one does see that, if the matter should come to the attention of the issuer, the licence would be refused. That is unequivocal, as I see it.

Hon. Mr. Drea: May be refused.

Mrs. Campbell: It would seem to me that there is some obligation on us, as long as we recognize the validity of this type of surgery in our province and in our country, to clarify the situation. One of the things suggested in the report was that this ministry should do all in its power and within its jurisdiction to clarify the issue. It should, in fact, exert whatever influence it might have—and that, of course, might be greater today than it was at the time of the report—to prevail upon the federal government to clarify that position so that we do not have cases of discrimination, which could happen under the present rather iffy situation.

[11:15]

Hon. Mr. Drea: I think it's a bit more substantial than a case of discrimination. If the person comes in to apply for a marriage licence and tells the absolute truth, which, of course, they're not required to do, and he or she produces a birth certificate that has M or F on it—you have two birth certificates, an M and F, by the two parties—okay, what we said in there is that we don't immediately put it through the computer and search it. We take it at face value.

But if they come in and do tell the absolute truth and say, "Yes, this is my birth certificate, but by the way, I have had transsexual surgery," or in the other case of someone from a community—and we haven't got to this stage yet because all certificates are issued centrally, but we're going to, and I'll talk about that a little bit later. We're in the process of decentralizing that, hopefully.

There's the other case of the person in a very small community where the local person or somebody involved knows, just knows—hasn't pursued it but is fully aware; maybe someone has had some notoriety, I don't know; this puts a tremendous burden upon the registrar, because obviously they're going to have to ask the question: "Are you not so-and-so who had transsexual surgery?"

It's not really a case of discrimination. It's a case of the less you tell at the wicket. the better off you are. If you do choose to tell the absolute truth, then you are in a position where you may be penalized for it. Go on, Mrs. Campbell. I want to make a few remarks a little bit later.

Mrs. Campbell: The Ombudsman's committee was obviously concerned about what

we perceived as the creation of a third class of person in Ontario. While I'm sure we all appreciate the steps which have been taken, it does seem to me—and I don't think the Ombudsman's committee has changed its position in any way—that the answer to the recommendation is still not complete. I would hope that the matter would be something that would be expressed in concern to the federal government.

Hon. Mr. Drea: If I can give you the background on this, I was involved, as you know, in the events leading up to the decision to amend the Vital Statistics Act. I was not involved in the act and now I'm back involved in it again.

The consideration that was first given about changing the birth certificate was basically on economic and social grounds. There were cases demonstrated to us, particularly with the way industrial society or occupations worked today, that it is virtually impossible to have gainful employment without ever having to produce a birth certificate. The actuarial costs are different, the group insurance costs are different, between male and female.

While the employer may not have been necessarily terribly interested, none the less, his insurance or pension carrier has to be. Indeed, they might be charging him the wrong rate et cetera. There were some other related questions involving employment.

Mrs. Campbell: Insurance.

Hon. Mr. Drea: Yes, insurance.

Mrs. Campbell: Motor vehicles.

Hon. Mr. Drea: Motor vehicles. In all the cases I had dealings with, they were all males who had had transsexual operations in varying degrees, most of them done outside of the province, which made it even more difficult to ascertain the gender. At that time it was our thinking that we would go the route of the birth certificates, so that in areas where we had competency this situation would be met. At that time, as I mentioned in the report that I gave to you, when the bill was introduced by Mr. Grossman, we took great pains to advise persons in this situation to get extremely competent legal advice as to their capacity to marry, on the grounds that it was beyond our jurisdiction.

At the time, back in 1976, they were putting questions. They did not want to live common-law; they wanted a marriage certificate. I went to great lengths to explain to them that it is not just the certificate; you are into various contractual obligations under law when you are considered to be legally married. And if you are not legally married, there are a great many implications for you that you should consider. Once again, in terms of insurance, I am talking about widows' benefits, for instance, and a great number of things. Also, of course, there are the normal contractural relationships within a marriage, which we are only now getting into in the family law question. Of course, people in this situation obviously aren't looking forward to imminent divorce, or they wouldn't be planning to marry and so on.

It is very difficult to convince them it is not as simple as just giving them a marriage certificate. Some of them feel very strongly that they do not want to go in with just a birth certificate. They want recognition—and I think this is pretty fundamental to this—they want official recognition of the fact that they are no longer a male, but are a female in every capacity: and that, particularly in the marriage field, we simply cannot give.

I suppose it is a question of meeting one problem; that is, they were in very dire straits because they couldn't hold a job for more than two, three or four months since they were compelled to produce a birth certificate for purposes of insurance, and the employer really had no choice because the person carrying the insurance et cetera did have rights to get that. Essentially, we provided them with a birth certificate for occupational and social purposes, but we retain the original birth certificate, which gave the other sex as their permanent status.

There are some routes, I suppose, that we can follow. Mr. Pike, how many are in this category that you know of since we registered them?

Mr. Pike: Less than a dozen.

Hon. Mr. Drea: In the whole province?

Mr. Pike: That's right.

Hon. Mr. Drea: Do we know of anyone who requested a marriage licence and was rejected?

Mr. Pike: No. The only case I have heard of wasn't before the fact; it was after the fact. We had one minister who said he wasn't involved with the issuance of the licence. We had one minister who said that he suspected—he only suspected—that he had officiated at the marriage of a transsexual. He asked for our opinion as to what he should do; so we informed him that since the licence had been issued in good faith, and he had performed the marriage in good faith, it wasn't up to

him to look beyond the facts. If anyone raised the question of the parties involved, they would have to go to court and get a decision.

Hon. Mr. Drea: Here, too, we also have the matter that you need not apply in a municipality for a marriage licence. If you are a churchgoer in Ontario, and the church knows you, you can have your banns published there, which is an alternative to applying for a licence. Our difficulty—and we haven't been faced with it—would be quite substantial if a clergyman who was licensed to marry in Ontario asked us this question.

We have Mr. Cooper from our legal staff, who specializes in this area, and Mr. Pike. I don't know whether we would be able, by law, to supply that information prior to the marriage. The difficulty in all of this is that these things come up after the marriage in all their variations. Primarily, it's the economic contract aspect of marriage because, to the best of my knowledge, no transsexual has ever given birth. Obviously, children's rights aren't involved. There could be a substantial difficulty over a period of time if somebody married somebody who did have children, the other party then died, custody of the children was left to the wife and then there was an attempt at a subsequent remarriage. The whole background of the person starts evolving.

We gave full warning on it, Mrs. Campbell. I suppose we have to take some responsibility in the ministry that over the years we didn't want to take the step about the altered birth certificate. We foresaw it inevitably coming into the capacity to marry. None the less, the hardship cases that came to me, of which I think you supplied two, were indeed very substantial. They couldn't hold a job, though they were perfectly competent to hold a job, because of that birth certificate, They could stall for a time and say they were born in Quebec and it was taking time. But sooner or later it came around, and there it was.

What they did was, they conveniently quit just about the time of the demand for the birth certificate. Then the whole process started over again. We've straightened that one out and we've straightened out the matter of privacy. To all intents and purposes, they were leading a female life and they had a driver's certificate with a big M on it. We've straightened that out. But this capacity to marry is really beyond our jurisdiction. Quite frankly, I think we can approach it from two directions.

I can request the Attorney General of the province to put a stated case before the courts. I'm quite sure the stated case will come back on just about the same grounds as this report. Mr. Cooper has spent a great deal of time on it. None the less, the court might be helpful in determining some guidelines for us.

Second, I think the proper approach, if it is the will of this committee—and obviously it is the will of the select committee on the Ombudsman, and I have just become an agent in this—is for me to convey to the Attorney General to convey to the federal Minister of Justice, because it would take federal legislation, that there is a concern, as expressed originally by the Ombudsman in this province and latterly by the select committee, which keeps saying we don't answer fully, though we're in a position where we can't answer them fully. Therefore, it should be taken up at the federal level for a determination to be made.

[11:30]

The real difficulty in this—and I can see why the federal government isn't exactly jumping in—is the actual determination of whether or not the gender or the sex has really been changed. I know we wrestled with this fact three or four years ago. There are all kinds of conflicting determinations when a sex is changed medically. There are various legal opinions on it. There was the Corbett case in Britain. In addition, there was a South African case of W versus W. South Africa obviously kept the matter in camera. The Superior Court of New Jersey, in M. T. versus J. T., "held a marriage between a man and a post-operative male transsexual to be a lawful marriage between a man and a woman, and awarded alimony to the deserted man-turned-woman. Rejecting the reasoning in Corbett, the court considered that as the sexual anatomy of the person, who was born a biological male but who was psychologically a female, had been changed by the operation so as to enable him (now a 'she') to function in sexual intercourse as a woman, she was a woman for the purposes of marriage even though she might still be a man by the chromosome and other biological tests."

We go back to 1945 in Switzerland. They held just about that opinion. There is a whole slew of cases. You've got North et al and Matheson, which again is an English case. You have in the matter of Anonymous (1968), 293 New York State, 2nd 834. A case in Germany, O.L.G. Frankfurt (1968). You've got cases in France in 1965 and 1974. As I say, some of these go against the Corbett case in Great Britain, but we are almost bound by the Corbett case in Great Britain.

Mr. M. N. Davison: Mr. Chairman, this is a matter going back some years now in the assembly. I, like others I suspect, hold rather strong views on one side or the other. The real issue is a question of foot-dragging on the part of the minister. Frankly, the Ombudsman process and the select committee process shouldn't be one where a member of the committee, like Mrs. Campbell, has to come several reports later into an estimates committee and try to get an update from the ministry, or try to still argue the basis of the case.

I'd be quite happy in joining with Mrs. Campbell that it's a question of discrimination originally, in the province of Ontario, that after an Ombudsman recommendation the government took an action which solved an employment opportunity problem, but in the process created a whole raft of other problems which the government chose not to look at.

Hon. Mr. Drea: We didn't create any problems.

Mr. M. N. Davison: You sure did.

Hon. Mr. Drea: They were always there. We didn't create a single problem.

Mr. M. N. Davison: Yes, you did. When you changed the Vital Statistics Act in 1978 you created a whole raft of other problems. You weren't the minister of the day.

Hon. Mr. Drea: Name one. I'd be delighted to know one problem. We were trying to meet a problem that was there, that had been evolved by medical science, which couldn't even agree on what it had done.

Mr. M. N. Davison: Before the act was passed in 1978, there were two sexual classifications of people in the province of Ontario by law, male and female. There are now three.

Hon. Mr. Drea: There are not. There are two.

Mr. M. N. Davison: There are male, female, and 12 other people who have birth certificates that say "female," who have their original birth certificates in a file somewhere, saying "male" with a notation "female" on them. You have three classes. But I don't think that's the kind of thing we have to bring before an estimates committee.

There are appropriate ways for that to be dealt with, and it's because the Ombudsman process is broken down from time to time, and in not all that many cases, frankly. But this is one of them where the process broke down and broke down badly. If you had given the commitment—which I think you have just given now—to pursue this matter a year and a half or two years ago, and again, with respect, you weren't the minister at the time, then we wouldn't have had the difficulty. The case would have been looked at properly.

If the federal government on the request of our Attorney General, or perhaps even the courts upon request of our Attorney General, had made a determination, regardless of what the determination was, the matter would have been at an end. The reason that Mrs. Campbell is here, months after the initial recommendations, is because of that kind of foot-dragging on the part of the government.

I don't know what your rationale was. I don't know if you thought it was something everybody could snicker over, or whether it wasn't important, or whether you disagreed, but—

Hon. Mr. Drea: That is very, very unfair. Those remarks of yours are very unfair.

Mr. M. N. Davison: Then they're unfair, and that's fine. The point is that Mrs. Campbell has had to come before an estimates committee with a recommendation which should have been dealt with a long time ago in exactly the way you have proposed today. I congratulate you on the fact that you've shown some determination to deal with it that way, but that doesn't mean that the ministry and the government shouldn't be criticized, regardless of their reasoning, for not doing this a long, long time ago.

I for one will look forward to seeing the matter go before the courts upon the request of the Attorney General, or be studied by the federal government on the request of the Attorney General, or any other way you want to accept or deal with that recommendation of the select committee. But I would suggest that if, in future dealings with that committee, you wouldn't wait two or two and a half years to do it, it would be a much better situation.

Hon. Mr. Drea: Mr. Davison, I don't think we have waited at all. The Ombudsman came forward with a recommendation—

Mr. M. N. Davison: I'm not talking about the Ombudsman's recommendation. I'm talking about a recommendation of a select committee of this Legislature that has been dealt with in the Legislature.

Hon. Mr. Drea: That's fine, Mr. Davison, but let's go back, the history of it is that the Ombudsman recommended and we did, almost forthwith, what the Ombudsman requested. So I don't think we foot-dragged there. At the very time we did that, my predecessor pointedly cautioned in the Legisla-

ture that it was beyond the ability of this ministry or any other ministry of the crown in Ontario to deal with the capacity to marry. It was purely federal. That was stated right at the time, so there was no foot-dragging there.

Mr. M. N. Davison: That was never the issue.

Hon. Mr. Drea: You've been telling me that I've been creating all kinds of problems, or the ministry did, and now we come to the third point. I said in what I read here before that the select committee went further than the Ombudsman.

Mr. M. N. Davison: That's right.

Hon. Mr. Drea: I'll read it again. I am just doing excerpts from page two: "In its review the committee appears to have gone further than the Ombudsman," and it goes on to say what you're expressing concerns about.

Mr. M. N. Davison: Quote from the fifth report, then. It's in the same paragraph.

Hon. Mr. Drea: "In its fifth report, the select committee stated the government has a duty to the extent that it is within its legislative competence to clarify and define the status of these individuals under the laws administered by the province."

Mr. M. N. Davison: Continue.

Hon. Mr. Drea: "Additionally, in the committee's opinion the province has a duty to prevail upon its counterparts in the federal government to enact legislation on a Canada-wide basis, removing any doubt or uncertainty in respect to the legal status of these individuals."

Mr. M. N. Davison: That's why, sir, I congratulated you on the statement you made earlier today that you're willing to try to move in that direction.

Hon. Mr. Drea: Well, that's a little bit different and I'm going to get it changed. As I said earlier, that yes—

Mr. M. N. Davison: We're not asking for change. We're asking for clarification.

Hon. Mr. Drea: We can go with a stated case to the courts, and I am absolutely sure as to what the courts are going to bring back to us, except they might put in a guideline that if indeed—

Mr. M. N. Davison: I find it impossible to be sure what the courts are going to do.

Hon. Mr. Drea: —the federal legislation was changed, all right. Now, I'm not advocating that the federal government change the capacity to marry at all.

Mr. M. N. Davison: That's not what you were asked to do. That's a red herring.

Hon. Mr. Drea: It's not a red herring. You're asking on behalf of 12 people that the federal government change—12 people in this province and presumably a lesser number across the country—

Mr. Chairman: I don't believe that that was what Mr. Davison asked.

Mr. M. N. Davison: That's not what the committee asked, that's not what I asked today, and that's not what Mrs. Campbell asked.

Mr. Chairman: It seems that you are both in more agreement than you think.

Hon. Mr. Drea: You tell me what you want, then, if I didn't understand.

Mr. M. N. Davison: I want the status of these people clarified.

Hon. Mr. Drea: The status of these people now is clarified. In the province of Ontario—

Mr. M. N. Davison: It is not clarified.

Hon. Mr. Drea: It is clarified. You're saying I created an "it" category. We haven't.

Mr. M. N. Davison: You have.

Hon. Mr. Drea: You are suggesting we have. I would like to reply to you that we have not. We have specifically cautioned these people at the time, and these are private discussions for rather obvious reasons, that this change on that plastic birth certificate does not give you entire status.

Mr. M. N. Davison: That's as a female.

Hon. Mr. Drea: That's right. What we have done—

Mr. M. N. Davison: Then it takes away part of your status as a male.

Hon. Mr. Drea: That's right.

Mrs. Campbell: That's right.

Mr. M. N. Davison: Therefore you have become part of a third class of people. And all this select committee has done is draw this to your attention and say, "Would you please take whatever action is necessary, or whatever action is within your competence, to clarify the position of these 12 people?"

Hon. Mr. Drea: What you are asking for, Mr. Davison, in terms of clarifying the position, the only place that there is a clarification needed is the capacity to marry.

Mr. M. N. Davison: No, sir, it affects property rights and it affects a whole raft of other rights of individuals under federal and provincial jurisdiction. I think you understand that.

Hon. Mr. Drea: I don't understand how, outside of marriage, it affects the property rights at all.

Mr. M. N. Davison: If you don't understand that by now, I don't know if I'm capable of explaining it.

Mrs. Campbell: Mr. Chairman, I think, if I may, what Mr. Davison is saying is that it is not simply the ability, shall we say the eligibility, to marry. It is a fact that rights flow from the question of eligibility to marry and I think Mr. Davison in putting it to you has really put the question on the basis of all the rights that flow from that kind of eligibility, if I am not mistaken.

Mr. M. N. Davison: It also includes, for example, their dealings with insurance companies.

Mrs. Campbell: No.

Mr. M. N. Davison: Sure it does.

Hon. Mr. Drea: No, it doesn't. You're suggesting that we create problems. As I said before, we haven't created a single problem; medical science created the problem. They created it; they started doing these operations. All right. They can't agree, even among themselves, believe me. I spent a considerable amount of time, three or four years ago, trying to find out if there could be a barometer or something put in it. They can't even agree. They start to disagree basically on where the operation was performed. I haven't created a single problem here.

Mr. M. N. Davison: You did. When you changed the Vital Statistics Act and changed the birth certificate that was in their hands and the notated birth certificate that was in the file, it seems to me you then created a third class of people.

Hon. Mr. Drea: No, we didn't. Those people were always there. They were in worse shape before this birth certificate, because economically and socially, to a large degree, they were completely outside of all society.

Mr. M. N. Davison: And legally they weren't.

Hon. Mr. Drea: Okay. Now we have put them in and—

Mr. M. N. Davison: And now legally they're out.

Hon. Mr. Drea: No, no, no. We put them in, but we cautioned at the time that we had gone the limit of what we could do. What I am saying today is that I can keep on replying to either the committee—and this reply was given to the committee; I felt that Mrs. Campbell wanted it brought here because she probably could question me on what was going to go on in the future. But let's not have any mistake or any misconception. All of the things that were done here today were given to the Ombudsman in the committee.

Mr. M. N. Davison: Can I put it another way? I'm not asking you to review—although at some other time I might be inclined to do this—the wisdom of using a notation, instead of an alteration of the original form. All I am asking is that you look at the two requests again in the fifth report: One, that you do what is in your competence to clarify and define the status of these people under acts that are administered by the provincial government. Two, that the government prevail upon the federal government to enact legislation, or any other thing that has to be done, to remove doubt of their status. I think earlier—and I'm sorry, maybe I should have just shut up while I was ahead —I think you said or you expressed a willingness to move in that direction by at least asking the Attorney General to put a question like that before the courts, and for that I thank you. It's just that the Ombudsman process will work better if you don't wait so long to do that.

Hon. Mr. Drea: I said that I state a question and ask him to put that before the court. The only justification would be they might provide a guideline, because I think everybody knows what the decision of the Court of Appeal in Ontario is going to be.

Secondly, I am not going to "prevail" upon the federal government to change legislation. I am going to draw the attention—

[11:45]

Mr. M. N. Davison: That request is subordinate to the goal of removing doubt or uncertainty.

Hon. Mr. Drea: Doubt or uncertainty is going to be—

Mr. M. N. Davison: If doubt or uncertainty could be removed without a change in federal legislation, fine. If that doubt or uncertainty could be removed by the Attorney General putting the question before the courts, fine.

Hon. Mr. Drea: Yes, but we know what the answer is going to be. I don't want to say what their answer is going to be, but we're giving you the citation and everything else the court is obviously going to have to rely upon, in addition to looking at the legislation which is relatively sparse. That amendment is not a major piece of legislation. All I'm saying to you is that it has always been the feeling of the ministry in regard to this status that the only way it can be remedied is by a change at the federal level.

I am not going to prevail, as has been the recommendation, I am very simply going to put forward to the appropriate federal minister this particular Hansard, say that a committee has raised this issue and I would appreciate his reply, and that's all I am going to do.

Mr. M. N. Davison: May I make a suggestion? When you decide what question you will ask the Attorney General or suggest that the Attorney General put before a court, it might be a good idea to meet with the select committee prior to that so that they can have some input into the question. If there's an issue of phraseology in the question the committee may be of assistance to you and the Attorney General.

Hon. Mr. Drea: It may be of assistance to the Attorney General, it's not going to be of assistance to me, because I'm just going to hand the thing to the Attorney General and say that I don't want to keep replying either to the Ombudsman—I think I've replied to him—and particularly to the committee year after year. I think perhaps the only way to solve the impasse between the committee and the ministry is by way of a stated case, then his people draft the question. I don't want any misconception that I am advocating change, or I don't want any misconception that I intend to do anything about the present state of only a male and a female having the capacity to marry. I want to make that very, very clear.

As I say, presumably the question with the federal government will be for the Minister of Justice and the other question will be for the chief law officer of the crown here, the Attorney General.

I don't think we have foot-dragged on it. I know what the answer is going to be on the court case.

Mrs. Campbell: Not to prolong it, I would just like to say this: The object of the Ombudsman committee was to obtain clarification. It doesn't seem to me that a stated case would clarify the situation unless in some way there were, as you say, guidelines which would recognize the fact that, as I understand it and this was discussed at the committee, there is some very careful consideration with very careful guilelines before such surgery is ever performed. It is not a question of bad or other, it is a question of very serious problems recognized medically and I don't think anyone would want to see people left in a kind of never-never land if their status could be clarified.

I am not subscribing to the foot-dragging in one sense; certainly you moved quickly and efficiently so far as I am concerned, so far as the provincial jurisdiction was concerned. But it does seem to me that if someone is concerned about the legal status of any person in the community, it would have been appropriate for the ministry to have followed through with discussion with the federal government, their counterparts, to get the kind of clarification it seems—I would think to most people—ought to be forthcoming if it's possible.

Hon. Mr. Drea: We will certainly do that and I want to make certain things plain.

Mrs. Campbell: You made your position plain.

Hon. Mr. Drea: But there seem to be some assumptions taken here. One of the difficulties is that when we looked at this the first time, when you consult very eminent physicians on this matter, they are not prone to certify that the person indeed has been changed. Not at all. And it is very nice to talk about legal definitions but if the people who are experts in the field are asked, "Well, when you get down to it, is this person a true female?" they don't want to give you a yes on it.

Mr. M. N. Davison: We are not being asked.

Hon. Mr. Drea: Well, yes we are Mr. Davison, because no matter how legalistically you want to put this point, what you are doing is altering not just status The reason for it is marriage and marriage is probably the most sacred institution we have. The law has gone to great lengths to keep it sacred, in many areas, the most fundamental being that only a male and a female together have the capacity to marry. Not a male and a male; not a female and a female. That goes on into other areas.

What you are asking here is clarification and what you're saying is that there are a number of people who some people maintain have actually changed sex, who some other people say have not actually changed sex. If the doctors could agree, there would be no problem, but they cannot. They cannot even agree and the first thing they want to know is where did it take place? Apparently some places where it is done aren't as good as others. I don't know; I have never pursued that. They ask which country or whatever.

Those operations are not done in this province, to the best of my knowledge. In fact, if I understand correctly, there is a prohibition on it. I don't know.

In any event, I will do what I have said I will do. I will consult with the Attorney General for a question. I don't think that that question will clarify the situation at all.

I think it will merely put back to the outline that we have given you.

Is that your view, Mr. Cooper; you have spent a great deal of time on this.

Mr. Cooper is from our legal staff. Mr. Cooper has spent a great deal of time on this matter.

Mr. Cooper: I think what Mr. Drea read before would be the appropriate step; for a transsexual to have the matter brought before the courts to determine the true sex and that would serve as a guideline. We don't know if there is a problem in Canada because there haven't been any cases in Canada. If there is no problem, there is no need for legislation. I would think the appropriate step would be for a person who has undergone a transsexual operation to have the matter determined by a court.

Mr. Chairman: I believe there is a consensus of the two critics and the minister on that and I would like to move on with the committee.

I must say, and I don't want to in any way be punishing, but as chairman and listening to the last few minutes of the debate I can't help but think that perhaps it would have been speeded up if all members of the committee just listened a little closer to what other members said, because there was considerable misunderstanding, which I don't think was necessary, and an awful lot of time was wasted. I am guilty of that as much as anyone, I am sure.

Hon. Mr. Drea: I would say in fairness to the committee that this is a very complex issue.

Mr. Chairman: I agree.

Any further debate or questions on vote 1506?

Mr. Breithaupt: I have one issue I would like to raise with respect to the accessibility to various vital statistical records for those persons who are interested in genealogical studies.

I recognize that since the statistics have only had to be provided to the registrar general's office since July 1, 1869, earlier statistics are sometimes unavailable. I just wanted to refer to and review one paragraph in a letter which I received and which originally went to the registrar general, from a Mr. Kenneth Switzer of Orillia. I think he sets out quite clearly in one paragraph the problem that persons have who are interested in these records.

For example, one notes from the statistical survey of these inquiries that there were some 6,500 two years ago, 8,500 this past year and some 9,000 expected for the next year. Clearly there is some interest among certain members of the population who want to look into the finding of their roots and their backgrounds from the earlier records in Ontario.

I will just quote one paragraph on the question he raises. "The form that one uses when applying for information to your department states on the reverse, 'The department has no records previous to July 1, 1869.' When I apply to the city offices of areas that interest me, they admit to having records of births, marriages and deaths antedating 1869 by many years, yet they cite the Vital Statistics Act, chapter 483, RSO 1970, section 48(1), and explain that I may not pursue their records nor can they furnish me with the information that I desire and which they have."

His question then is, "How may one gain access to the information that exists but predates 1869?" I recognize that all of this material, as I understand it, predating July 1, 1869, has now been transferred to the provincial archives and that access to that is available to anyone on the normal terms of inquiry that might exist.

Hon. Mr. Drea: If they are looking for roots, marriage documents are not available.

Mrs. Campbell: Even if they have them?

Hon. Mr. Drea: One of the difficulties is that they start looking for marriage documents; this poses some difficulties for us.

Mr. Breithaupt: Particularly in parish records and the sort of thing you wouldn't have.

Hon. Mr. Drea: No, but we are very wary about giving out marriage data except to the two people who were married.

Mrs. Campbell. What would be the problem if it predated 1869?

Hon. Mr. Drea: They may start back there but they quite often want to start their search right now or 20 years ago.

Mr. Breithaupt: I can understand that that is a concern.

Hon. Mr. Drea: They can still count.

Mr. Breithaupt: It seems to me that there may be some way of accommodating the legitimate interest of persons who are looking back into the earlier years of provincial history and looking back at their antecedents.

Possibly one way of dealing with the matter is not just to say the department has no records previous to July 1, 1869, but advise where those records might be so far as the archives are concerned. Another way may be to encourage municipalities that perhaps may not see the need to keep their earlier records

to turn those over to the provincial archives for a broader interest to persons who might be interested in finding out that information.

[12:00]

In the light of a growing interest in this theme I'm just wondering how you are able to explain the present circumstance, and what can the serious person interested in these records do to expedite the searches they choose to inquire into?

Mr. Pike: I would like to ask at the outset if you followed the Switzer case through? It rings a bell with me that we dealt with Mr. Switzer and explained to him what the situation was.

Mr. Breithaupt: I had asked him to send me a copy of any reply to his initial letter in April of this year to the registrar general but I did not receive one. I presumed the matter had perhaps been resolved to his satisfaction.

Mr. Pike: I think we did, but I would like to explain to the honourable member what the situation is. We are responsible for all records from 1869 to date. You will admit that 9,000 out of half a million is not exactly large and the 9,000 have very meagre information when they apply. Really, genealogy takes a great deal more time. We spend a lot more time trying to accommodate applications than we do on anything else because we realize what they need.

Mr. Breithaupt: I can appreciate that, with the spelling changes and uncertainty as to what county or township a person might have been in.

Mr. Pike: We even introduced a document specifically for genealogy which allows them more information than they're entitled to under the legislation for that purpose. It's called a genealogical extract.

In relation to the documents you're speaking about, there are numerous documents throughout the province of which we would not be aware that are in the possession of the division registrars or the municipalities, which were completed and held in their custody and which are their documents. On any occasion where, for any reason, they send those documents into our office we immediately transfer them to archives so that they're fully available

In the situation you're speaking about it's not impossible for someone to walk into a division registrar's office in a small municipality and if he's not particularly busy he will say to the person, "I'll accommodate you. I have some records here and I'll let you look at them" Another division registrar will use the shield of the office of the registrar general and say, "I can't."

Most of them are aware that they can, if they want to, allow someone to look at a a record prior to 1869. But looking at it from their standpoint, they're saying, "I have a busy operation here. I'm a clerk and I haven't got the time or the facilities to allow members of the public to come in and look through my records." A lot of them will turn the applicant down flat. They can do that and we have no jurisdiction over that at all.

In most cases where something like this comes up, where it's a specific thing, if it's important, we contact the division registrar —which we will do—and say, "We're not too concerned about this situation at all. If you have the facilities to provide this information to this gentleman, go ahead and do so. If you don't want to do that and would like to send the documents to us, we'll send them over to archives." We would do everything we could to accommodate them.

I think I explained the situation to Mr. Switzer. I could be wrong, but I think Mr. Switzer was accommodated.

Mr. Breithaupt: It's good to hear, because I think while this may be an exceptional amount of work for one particular registrar to attempt to accommodate, if there is a possibility of at least encouraging that, to the serious person who is obviously there, it's a matter of great personal interest and one that isn't going to receive the information any other way, this is an area one might hope could be encouraged under proper provisions.

Mrs. Campbell: I have just one question. I've had a problem, and I must say your deputy registrar general has been most helpful and most concerned. I think he's handled the matter in the only way available to him at the moment. I have a concern about the person who cannot supply the kind of information requested in order to obtain a birth certificate.

I understand so far as the birth certificate goes that you have to be very careful.

Hon. Mr. Drea: We've provided many Russian spies with their cover.

Mr. M. N. Davison: Let's hear about this.

Hon. Mr. Drea: James Earl Rae.

Mrs. Campbell: With many, the difficulty is that in our society, where a social security card is necessary for so many things, and that is based upon obtaining a birth certificate, what in the world do we do with people —and I have this particular case, and I think from what I hear so has everybody else in

the Legislature, so I'm not unique—if you can't trace from the information you have as to year of birth? You have no relatives you can call upon—

Hon. Mr. Drea: No family Bible.

Mrs. Campbell: No family Bible.

Hon. Mr. Drea: And you were born here. If you were an immigrant, Immigration has you back to the end of the last century. If you're born here you have difficulty.

Mrs. Campbell: That's the problem I face. If you're born here, there seems to me there must be some other presumption that you can call upon. But in this particular case we seem to be at a dead-end.

My view is that any information that I give about my birth is hearsay, anyway, because I don't remember, frankly.

I just wondered if there is a possibility that the ministry could review this and see if there is anything that can help somebody who has no identity for all the purposes of our complex society. I don't know what you would do.

Hon. Mr. Drea: The difficulty here is that the birth certificate everyone takes for granted is something your mother brought home from the hospital, or you got it first of all when you played hockey, for instance, to establish your age; it's a very easy document to get but none the less it is probably for you the most important document of all time. I think one of the suggestions might be to try to break it away and have certificates of apparent proof of age for particular programs.

In other words, for the person who gets into this difficulty they're not being academic about it. It's not just a question of will the government of Ontario or the registrar or the deputy registrar find out my age. It's always for a program, or a benefit, even a passport, they have to submit this thing.

I don't think we can attack it on the birth certificate thing. I think that's been our failure. That is a rather absolute document.

Mr. Pike: There's no question about it.

Hon. Mr. Drea: So, perhaps Mr. Pike can be somewhat helpful—

Mr. Pike: I was just going to consult for a minute on this particular case.

Mrs. Campbell: I know—

Mr. Pike: In 33 years, I can remember one case in our ministry, and one only, where the person at the end could not provide sufficient documentation to get registered. In the instance we're speaking about here—let's say the gentleman has made no effort whatsoever to provide any documentation. He has consulted with yourself, with the Prime Minister, several ministers—

Mrs. Campbell: He's in good company.

Mr. Pike: —and in each case what we have said is, "Provide us with some information."

There are innumerable ways this gentleman can get information. He must know where he lived at some period in time so he can write to the census. He must have gone to school. In other words, we're not licked but he beat himself, because what he did in the end was say to us, "You're not helping." In response to any request we made he refused to try to provide anything, except to say we weren't giving him service.

Mrs. Campbell: I don't think that's quite fair. With respect, he did go to the hospital where he thought he was born, trying to trace their records. He could find no record at that hospital.

You invite other kinds of information. He has no relatives that he knows of in Ontario and he has no connection with some relatives in another province.

Hon. Mr. Drea: Well, he went to school some place.

Mrs. Campbell: That's right—

Hon. Mr. Drea: That's a very valid way of establishing age.

Mrs. Campbell: I'm aware of that.

Hon. Mr. Drea: And invariably those school records disappear when they're not kept that well.

Mrs. Campbell: And sometimes they do. But it just seemed to me, not that there was any fault in the registrar general's operation, or the deputy registrar general, but when everything in our society depends on that one document. I just felt there might be some other way for a person to be able to establish something on himself. I myself have been party to finding things for people who are applying for their old age security. And you do get church records. You do get school records. You get all these things.

Hon. Mr. Drea: Perhaps you could use your good offices to—if you could only tell us where he went to school. Maybe he has the idea that if he went to school in Saskatchewan or Manitoba, he's going to have to go out and do all the searching. We'd be very glad to do it for him. Perhaps you could convey to him, that if he could just give us some times or places where he was in his life, things that were recorded—school, et cetera

Mrs. Campbell: I have tried, Mr. Minister. I support Mr. Pike.

Hon. Mr. Drea: Well, perhaps I can—Do you want to give me his name?

Mrs. Campbell: You can have his file

Mr. Pike: The original questionnaire asked him to just send in information and if the person has nothing on it, we'll go from there. But he has returned nothing, except to phone up and ask for something. For some reason or other he doesn't want to talk to me. We've invited him in to have a discussion about it. But other than the odd hasty phone call, in which he sets out his situation, that's all we've had from him. So he is a difficult case.

Mrs. Campbell: Well, I did pursue the question on his birth, as he had been told. And he did pursue it with the hospital where he thought he was born. Somebody must have told him where he was born. But I don't suppose he's giving best evidence at that point, to his birth.

Hon. Mr. Drea: Mrs. Campbell, I'd be delighted if you could bring up any suggestions. Maybe I could use my good offices in conjunction with yours, because there are innumerable ways. We will go into virtually everything possible because, as I say, these are not academic questions. Invariably, they determine whether a person can get into programs and so forth. In five or six years he might have to get personal banking changes, so I'll be very glad to do it for him.

Mr. Chairman: Shall 1506 carry?

Vote 1506 agreed to.

Mr. Chairman: Is it the wish of the committee that we move on to 1507 or 1508 at this time? Vote 1508 was our original agreement. We'll stand down 1507; 1507 is the liquor licensing program.

On vote 1508, rent review program:

Mr. Breithaupt: I just have some general comments to make on the rent review program as it has developed within Ontario.

This has clearly been a popular initiative among many areas of the general public and certainly the Legislature of this province has been convinced to take a strong interest in this field. The recent protracted debates on the matter have borne this out.

We have a new Residential Tenancies Act, whose constitutionality is presently being questioned before the Court of Appeal. However, the general scheme of the rent review program will, it appears, continue for the next several years. All members in this House have been involved in supporting the continuation of the rent review program, because in their view the immediate lifting of controls would lead to large rent increases and would cause hardship to tenants. The need for such a program is based on the present deficiencies in the rental housing market, and I certainly expect that we will continue to need the present remedies that are available to us under the rent review program.

[12:15]

But let us turn specifically to the program itself, and what we expect from it in the coming year. There is, in particular, the new obligation required of the landlord to post a rent schedule and file the same with the commission. This will be an important assset in providing certain tenants with the basic information they need for confronting proposed rent increases. There are requirements stipulating whole-building reviews, which may also facilitate that process. Nevertheless, there still remain gaps.

We in the Liberal Party are not optimistic that the problem of some of these gaps will be resolved as we observe upon the administration of the present program.

Let us look at the performance of the rent review program for 1978. It seems that the true test of the effectiveness of the program such as this is the extent to which it is applied and complied with. Certainly any law that is disregarded by those to whom it applies only nurtures a lack of respect for those entrusted to enforce that law.

Despite the many studies that are put out by the government, it is interesting that apparently no studies exist to test the effectiveness of the rent review program. There are research staff, who have had to prepare on their own, and for simplicity's sake I will limit my comments just to the Metropolitan Toronto area.

In December 1978 the Ministry of Housing published a rental market survey for eight Ontario cities, based on the period October 1977 to October 1978. On page 18 of that study there is a table which lists the percentage increases in rent for all those tenants who had occupied the same dwelling unit for that period.

As an aside it is interesting to note that it is impossible to determine from that table the percentage of non-movers who experienced rent increases greater than six per cent. Instead, the ministry gives percentages for such arbitrary categories as the less than five per cent group, those from five to seven and one-half per cent, those from seven and one-half to 10 per cent and so on.

On contacting the ministry we found that 48 per cent of non-movers in Metropolitan Toronto experienced increases over the six

per cent guidelines, and non-movers comprised some 67 per cent of tenants in Metropolitan Toronto. The question then, Mr. Chairman, is how many rental units does the total amount to?

First, of course, one needs to know the total amount of rental units in Metropolitan Toronto which are subject to rent review. Well, the rent review program couldn't really help us there since they don't apparently have statistics on the total number of rental units falling within the jurisdiction of the program. However, using StatCan figures for 1976 for total rent units and subtracting those units not covered by a rent review as in publicly assisted housing, we get a figure of approximately 300,000 rental units for Metropolitan Toronto for 1976.

I suggest that would be a rough base for 1978 as well, as new units of course are not covered by rent review. But if some 67 per cent of these are non-movers and some 48 per cent of the non-movers had increases over the guideline, that means that there were some 96,000 units over the guideline increases in Metropolitan Toronto in 1978 for non-movers. Now if on average there were around 9,000 new units introduced into Metro each year since 1976, we can exclude 27,000 of those units for new buildings perhaps not covered by the programs. But that still leaves some 69,000 over the guideline increases, and yet how many of these units were reviewed by the program?

According to the report to the minister in 1978, on page 23, there were 25,000 units so reviewed in Metro Toronto. That then means that some 44,000 units in Metro Toronto were likely subject to larger increases beyond these limits, without any review and that just relates to the non-movers.

Similar calculations for movers who experienced greater increases show that the total number of illegal increases or exceptional increases could be in the neighbourhood of some 90,000 to 100,000 units. Now, some of the data here of course may be somewhat sketchy and the calculations are rough, but they are based on the statistics which we have on hand.

Even allowing for a 20 per cent error, we are still speaking of increases around the 70,000 to 80,000 numbers of units within Metropolitan Toronto, roughly one quarter of the Metropolitan Toronto rental units.

I think it is incumbent upon the ministry to establish to what extent the rent review program is being utilized and, further, if the calculations I have suggested to the committee are reasonably accurate, why in fact we have this large number of units which are not being covered. There may be a number of possible reasons, of course. First of all, the tenants may be content with their increases above the six per cent figure. It is possible; it may not be likely, but it is possible.

More probably tenants are unaware of the mechanisms of the rent review program and they may feel that when they get notice of an over-the-guideline increase the rent review process has already been accommodated and completed and the landlord has some authority or approval or acceptance of these conditions which in all practice really gives them no option but to accept the increase.

I think tenants may well feel that their position vis-à-vis the landlord is an inferior one and they may not challenge the increase because their own lifestyles and patterns may be made somewhat more uncomfortable if they do so.

There is a possible solution if this theme is a correct one and that would be by a more active enforcement role by the rent review program. With schedules being filed, it may be that some interest in spot-checking their accuracy and the involvement within buildings of tenants and the moving rates of tenants in and out of certain buildings or projects would be a useful guideline that would bring interesting information before the rent review program. It may also be that an investigation on its own initiative by the administrators of the rent review program would be worthwhile to look at the increase in the guidelines.

I think it is clear, Mr. Chairman, that as the members of the Legislature have gone through the reviews of the legislation that has been before us over these past four years or so, they have seriously wanted a program in place that is effective. If the program needs to have this additional reference opportunity to ensure that by sampling or by the initiative of the rent review office accurate statistics are going to be more readily available then I would suggest it would be useful to go into that theme.

I am sure there will be others who will want more particular questions on the rent review program, but it could be that if we have the opportunity of just some general comments first on the program and how you sense its acceptance and enforcement, then this might well be of help to the members of the committee.

Hon. Mr. Drea: I would just say in reply to one of the general statements, Mr. Breithaupt, that under the new act which is now in effect, the enforcement—

Mrs. Campbell: What part?

Hon. Mr. Drea: Rent review we are talking about, the rent review section is in force—one of the determinations in that is a method for better enforcement. I don't think there has been any question that since the inception of rent review, or rent control, which is what it really is, the compliance really relied upon the ability of the tenant to complain, just as you have stated. Under the new one, of course, the filing, which can be spot checked, as well as the availability of other enforcement measures will be there.

Notwithstanding the fact that during the debates on the bill it was very much the consensus of the committee that there be no fishing expeditions or so on and so forth, your questions on some of these—I think I might as well be pretty blunt with you. Particularly in the small units, there is a lot of mutual agreement. The landlord comes and says, "I have to put in a new furnace so I have to raise my rent." He tells them the cost of the furnace or whatever it is and the people in the place agree and they don't ever come near a rent review officer.

When you take a look at the volume of the accommodation in that category, even in Metropolitan Toronto, somehow there is the idea that the smaller unit is prevalent in the province of Ontario outside of Metropolitan Toronto. The smaller unit is very prevalent. It may not get the attention of the high-rise, but when one adds up all the smaller units they are probably more than 50 per cent of the market in Metro.

In a great many of these—for example, the single family house, or the duplex where there is a rather intimate relationship between the landlord and the tenant—a great many accommodations are worked out. You are quite right; they are probably illegal. But if the tenant doesn't come forward, it's really a de facto situation. Indeed, that was one of the considerations in the government's policy of trying to exempt the smaller unit from rent review, which was not accepted by the committee or by the Legislature.

The fact is there are a great many accommodations being made out there by mutual agreement and probably, in our estimation, more above the guideline increases there than anywhere else. We didn't want to put in the concept of mutual agreement because in other areas wherever mutual agreement has been tried in the past, whether municipally in terms of standards compliance or by rent or by anything else, it can be abused very substantially. So we didn't try that road.

The difficulty is in terms of enforcement. If it is a triplex where the owner lives there and where one of the two other units is rented by a long-term associate or friend or neighbour, these people just tend to settle their own affairs. I think they would be outraged if the government came in. They would be absolutely thunderstruck. Their view is that the six per cent guideline and all of the things of rent control are for the big apartments. That doesn't make it right and I am not suggesting that at all. But I think you have to look at why it is going on. It's not a lack of diligence on our part.

There are some other areas where rent review awards were made in 1975 or 1976—I know of one in Mr. Bradley's area where the landlord hadn't even got up to the level set by a full hearing in 1976. He didn't really ever try to enforce that, but when things got a little bit better in the area, he made a big jump one year and he can't understand why we are after him on the grounds that if he could charge $215 for this unit in 1976 with our approval, but couldn't get any more than $190, why are we hollering at him now because he got $205? There are some of these, depending upon the economic situation. There is no question that we had to crack down on it, but in the smaller units there is almost a de facto mutual compliance because if there wasn't the tenant could complain.

There is a full sector within rent review to handle complaints and go out and check them, but it is hardly being burdened to capacity. Under the new one, there is spot-checking of the filings. Also, bear in mind that in some of these statistical gatherings the rent may have gone up in excess of the guidelines if the person wanted something done as well. Perhaps they wanted the place altered a little bit or something and they offered to pay cash, but the guy said no, that he preferred for business reasons to put it on monthly, if they wouldn't mind.

I would again be less than honest if I didn't suspect that there is a group out there that is deliberately ignoring rent controls for its best interests, it would seem to me, unless they turn out to be rascals in the full sense of the word, that almost inevitably they will get caught sooner or later. They push the tenant just a little bit too far.

[12:30]

Mr. M. N. Davison: Mr. Chairman, I have a few questions regarding rent review and the new residential tenancies legislation. During the hearings the committee held on the new legislation, I think most members who were there will agree that the most passion-

ate and moving experiences during that time were when we heard from Ontario Housing Corporation tenants about the conditions they were living under in OHC units and the question as to whether OHC was very much of a good landlord.

A lot of consideration was given by some in the committee to trying to find some way through the legislation to—I can't think of the appropriate word—tie down OHC so they couldn't be such a bad landlord. Not much was accomplished, although I think it was assumed by many in all three parties that the fact that a legislative committee had been the forum for the airing of those complaints against OMC would somehow have smartened up OHC. I thought that, to be quite honest with you. I really believed that OHC listened and would have smartened up.

Mr. Chairman: Then Barry Rose left.

Mr. M. N. Davison: Mr. Minister, you received a copy of a letter recently that was sent to the Minister of Housing (Mr. Bennett) and it shows a recent case.

The details are just frustrating. This gentleman has been permanently unemployable for medical reasons since 1972. Until December 1978 he was a tenant of OHC, sharing an apartment with a woman to whom he was not married. During December 1978 he and his estranged wife agreed to a reconciliation. The individual thereupon decided to quit occupying the OHC apartment but the woman he had been living with during that time remained in possession and has done so, as far as I know, to this day.

This gentleman, who is unable to work, receives $387 a month in family benefits and it seems to me that if he doesn't qualify for OHC housing I don't know who does. It's a pretty clear-cut case. He submitted an application and was rejected by OHC. He went to an MPP. The MPP got involved in the case. He went to OHC. OHC told the MPP involved that OHC accommodation is for the elderly and for the invalid and that this gentleman would have to just furnish a medical report to OHC. Subsequent to that the individual went to a legal clinic and was still having trouble getting into OHC housing. On this individual's behalf, the legal clinic contacted OHC and found out that now OHC's reason for refusing accommodation—now get this—was in fact because his wife was still residing in an OHC apartment.

The legal clinic explained to OHC that she wasn't the guy's wife and that he wasn't and had at no time been married to that person; he was reunited with his wife, didn't want to live with this person that OHC claimed was his wife—in fact didn't want to have anything to do with her because he had been reunited with his wife—and could he please have an apartment. OHC then explained to this legal clinic that it was OHC's policy to rent only one unit to one family.

The clinic then brought up with OHC the question of a divorce situation and OHC admitted that was different, that they did make exceptions in those cases, which is just ludicrous because a divorce proceeding can go on for ages and ages. There is absolutely no difference and this is just another example of peculiar, crazy discrimination by OHC.

This is such an odd case that even OHC is going to back down, right away, I trust.

Hon. Mr. Drea: You said I got a copy of that. When was it sent? I don't recall it.

Mr. M. N. Davison: October 9, so you may not have seen it on your desk, but I'm sure it's in the hands of your officials.

Hon. Mr. Drea: All right, I will take it up with them.

Mr. M. N. Davison: I can give you the name.

Hon. Mr. Drea: Is it OHC or is it from Hamilton?

Mr. M. N. Davison: No, it's not; it's from Toronto.

Some of us believed, fools that we were, that OHC would have smartened up by what happened before that committee, that in the end there wouldn't have been a need to use the Residential Tenancies Act to tighten up on OHC so they couldn't do this kind of thing, and they're still bloody well at it.

Look at that case. I can't think of a more crazy thing for OHC to be doing in denying accommodation to people. Obviously, you haven't had time to look through that and maybe you'll need time to consider it in detail and investigate it yourself perhaps, but I think the committee was right.

Hon. Mr. Drea: Mr. Davison, you'll get a report on that, by tomorrow afternoon I hope, or if that turns out to be impossible, by next Wednesday.

Mr. M. N. Davison: It may not be possible, so when you do review this—

Hon. Mr. Drea: No, I'll get it for you. I said it might not be possible for me to get it for you tomorrow.

Mr. M. N. Davison: I'm concerned about the individual because this individual is being wrongly treated, but I'm even more concerned about all the other people who are still being discriminated against.

Hon. Mr. Drea: There's one thing I don't understand in there. If the man was permanently unemployable and in receipt of family benefits, why would an additional medical examination have been required?

Mr. M. N. Davison: When the day comes that I can understand what OHC is doing it will be time for me to leave this place because I know I'll have accomplished my life's work.

The question I really want to ask is would you take another look at the Residential Tenancies Act we passed as it affected OHC and consider once again the wisdom of some of the clauses in that act affecting OHC? Frankly, Mr. Minister, OHC hasn't smartened up and is still acting in a discriminatory fashion. I think we have an obligation, as the people who passed the Residential Tenancies Act, to consider what's happened.

Hon. Mr. Drea: I agree with you, Mr. Davison. The difficulty in it is I don't know how regulation really would cure that situation. It seems to me—and this is based on a long time in that committee—that it wasn't the legislation that was at fault, it was administrative decisions.

Mr. M. N. Davison: And policies.

Hon. Mr. Drea: I don't know about you, maybe you grasped more of it than I did, but I found it somewhat difficult to get a handle on the word "policy." I can understand that they don't have things written in stone because you're dealing with humans all over the province in a great many situations. I'll get back to you on that.

Mr. Chairman: I think if I may, Mr. Minister, it seemed to me that at least when Barry Rose was head of the OHC, while they did have "some policy things" that they could spring on you, at least Rose had an ability to see the human side of it and would somehow try to do something in an individual case. There are people like Mrs. Niddrie who do, I think, see the human side of it, but I am not sure that the present administration at OHC, after Rose left, had that same human compassion or empathy. So often the regulations are enforced rather than the humanity. That's not just my impression as an MPP but there are other MPPs who have expressed a similar feeling. I realize that Metro has benefited by Mr. Rose going over to them, but it's certainly been a loss at OHC to have this man, who was the chief executive officer, lost to the corporation.

Mrs. Campbell: Mr. Chairman, as I would endorse what Mr. Davison has said; I don't think they have changed. As far as I can see, they have changed nothing as a result of those hearings.

For instance, I thought we had covered the matter of the type of information they could require in that discussion. They didn't change it. I'm getting to the point where with the new legislation I don't know how it's going to work out. I'm prepared to tell the people in one of my buildings, "If they can't provide heat for you then I suggest you all move to an hotel and bill OHC."

As landlords they just seem to be totally insensitive to the problems of the people. Whether it works out the same way where you have a housing authority type of administration, I don't know. In my community I have fought against a commercial management type operation for OHC ever since it started, because you can't make it work. I would have hoped that under the new legislation there would be a cosier kind of look at this, because the commercial ones are going to have to be a little more aware and sensitive. But I've had the same types of problems and they haven't changed.

Hon. Mr. Drea: Obviously I haven't mentioned this, because I know the committee knows it. OHC isn't under my jurisdiction.

Mrs. Campbell: I know, but the legislation is.

Hon. Mr. Drea: Yes, but I will certainly discuss this with my colleague, the minister responsible. I would say that's one question—

Mrs. Campbell: I wish you were accountable and not just responsible.

Hon. Mr. Drea: If I were accountable, I don't think you'd have—

Mrs. Campbell: I don't think we would, either.

Hon. Mr. Drea: If I could just raise one point you're talking about on the outside. Every time you people promote me into another ministry it causes me grave difficulties, I will tell you. I can't do business on my own.

I will say to you, on the housing authority situation, Mrs. Campbell, that I have some grave concerns about them. This may be of interest to you, it may be of interest to the committee, that in one community, and I'm not going to name it, they read the landlord and tenant section. They read very quickly the disposal of articles in the storage space. They sent out a directive to this senior citizens' home that they had to empty all the existing storage space, and use a smaller individual one. If they didn't do it within a very short time limit the surplus articles were going to be sold at auction.

Mr. M. N. Davison: Was it Hamilton?

Hon. Mr. Drea: No, it wasn't Hamilton.

Mrs. Campbell: It happened to me in Toronto for the first commercial operation.

Hon. Mr. Drea: I get a letter from the poor person there. First of all, it's totally inappropriate under the Landlord and Tenant Act; second, the landlord and tenant portion hasn't been proclaimed; and third, even if it had been proclaimed it wasn't very valid.

What concerns me in a situation like that is when it came down to it the housing authority apparently had no knowledge of what its employee was doing; there were other employees, regional men or whatever you want to call it, who weren't doing it. Obviously there is some difficulty even with anticipating the new act, let alone not being involved in it.

Mr. M. N. Davison: In the absence of Mr. Renwick and realizing we only have 10 minutes left, there's one other terribly important matter under the rent review vote that Mr. Renwick and Mrs. Campbell, I know, are very concerned about. That's the question of the little court case that's going on today. I've almost lost it in my memory how long ago, over a year, I guess, when we just sat down with the Residential Tenancies Act—

Hon. Mr. Drea: Eleven months.

Mr. M. N. Davison: Eleven months—one of the very first things that happened was somebody asking—as a matter of fact, I think it was a relative of Bora Laskin who initially raised it, his son, who initially raised the matter as to the constitutional—

Hon. Mr. Drea: Then he filed a constitutional issue.

Mrs. Campbell: I raised it too and was advised that you had checked it.

Mr. M. N. Davison: We had the whole little show about how—I think we had a representative of the Attorney General's office, troop in. We had our own good staff from your ministry explain to us how this was all perfectly constitutional. There were no problems. What's going on?

[12:45]

Hon. Mr. Drea: Very simply, Mr. Davison, starting from the beginning there was the question raised by Mr. Renwick and there was an opinion delivered by the Ministry of the Attorney General. Mr. Renwick then said—I think it was on behalf of a group—they had obtained the services of a very distinguished constitutional law professor, Mr. Laskin, and Mr. Laskin brought in a view. Mr. Laskin said that in his view it was constitutional.

The difficulty was when we came to the end a number of people notified us that, notwithstanding those two determinations, they either had opinions or views that this was unconstitutional and that from the moment it was invoked they intended to go to court.

You're going to ask why we did not go to court during the six or eight months it was on. I will tell you why we did not go to court.

The courts of appeal across Canada are becoming increasingly concerned about having to hear hypothetical cases, for rather obvious reasons. They don't think they should be involved. They don't think that when government has a concept it should be sent up to the court of appeal to see if conceptually it is within the jurisdiction of the province. What they're saying is, "If you are going to proceed with it, show us the final act and we will judge upon the final act, not the hypothetical case."

After it was passed, in June, I consulted with the Attorney General on the basis that we were going—

Mrs. Campbell: The acting Attorney General or the Attorney General?

Hon. Mr. Drea: When the Attorney General is away I have to consult with myself, because I am the acting Attorney General.

Mrs. Campbell: I see. At that point it was Mr. Welch.

Hon. Mr. Drea: No, it was Mr. McMurtry that I discussed this with. Most of the time that Mr. McMurtry is away, I am the acting Attorney General.

Mr. M. N. Davison: Is not the Provincial Secretary for Justice the acting Attorney General?

Hon. Mr. Drea: Yes, but he may not be available.

Mrs. Campbell: He's the one who—

Mr. M. N. Davison: You're third in line.

Hon. Mr. Drea: On that one. Second in line on some others. There are times on the holidays, because I guess I don't take them, that I am it, so to speak—everything.

Mr. M. N. Davison: You may well be Premier.

Hon. Mr. Drea: No.

I consulted with the Attorney General in the month of June—

Mr. M. N. Davison: This was with the real Attorney General?

Hon. Mr. Drea: With Mr. McMurtry.

Mr. M. N. Davison: Not with yourself.

Hon. Mr. Drea: I consulted with him and it was decided that he would put a stated case into the court. Now you're going to ask why is it being heard in October rather than then.

Quite frankly, the only dates open for the court to hear the matter were now, because the court had retained Mr. Robinette and these were his available dates. They were the earliest available dates, notwithstanding that the Court of Appeal viewed this as a great priority. We are absolutely convinced we will be upheld constitutionally. We're absolutely convinced.

Mr. M. N. Davison: Does the Attorney General disagree with you?

Mr. Kumer: No, he's not arguing it.

Hon. Mr. Drea: On the basis of being able to submit it while the committee hearings were going on, that procedure would have been frowned upon by the court. As I say, they don't want hypothetical cases, à la Alberta. They want the act as passed by the Legislature. Therefore, I moved, on the basis of the challenges that were going to be forthcoming—I notice a number of the people are represented up there who said they were going to challenge it—to do so at the earliest opportunity.

I would have hoped perhaps they could have done it in the summer months. But space in the calendar of the solicitor whom the courts wanted to present the constitutional argument of the counsel, simply wasn't available until this date. You just don't go around telling the courts to find someone else to do it faster. The court has it as a priority.

Mrs. Campbell: Not very often.

Hon. Mr. Drea: And you don't live very long if you do.

I will say this for Chief Justice Howland, he considers this a priority matter. He scheduled it at the earliest available opportunity. I think there's every reason to expect that the decision will come down on a priority basis, rather than linger.

If we're going to be challenged, let's have it challenged now, before and if. You always have to assume this. The hypothetical case in Alberta went against the government. The actual case in British Columbia came down as constitutional. There appears to be a split in thinking. You always have to look at the worst.

If we look at the worst and we find out the worst is true, notwithstanding the opinions and everything else we have we can remedy the situation, rather than having to dismantle something that's been declared ultra vires by the courts.

Mr. M. N. Davison: I think it's good you didn't wait until some tenants had to take it on their own. I thank you for that.

Hon. Mr. Drea: Let's be very blunt about it. I think it's much fairer in a situation where the government knows it's going to be tested, for the government to take the case into court on purely an economic basis, rather than asking a group to raise funds to do so.

Mr. M. N. Davison: I agree, especially when it's a group of tenants.

Mr. Kumer: I might add that the court appointed Mr. Robinette to argue the negative, not so much to ensure that no one else argued—because there were other counsel there and they may or may not argue—but whatever their decision is, no one will be able to say that the negative wasn't adequately argued and represented.

Mr. M. N. Davison: Is this then going to become a policy of the government of Ontario, that no questions will be referred before such time as the legislation has finally been passed by the assembly through third reading?

Hon. Mr. Drea: I would think you would have to ask the Attorney General that one. I don't know that it's a firm policy.

Mrs. Campbell: Either way, at the moment couldn't you give us your opinion?

Mr. M. N. Davison: Yes. Let's ask the acting Attorney General.

Hon. Mr. Drea: Mr. Davison, I will ask the Attorney General that specifically and I will get you a reply.

Mr. M. N. Davison: I'm concerned about cases when you are less sure than you were on this one. There are cases where you will lose. I wonder about the usefulness of a system that requires legislators to go through a six- or eight-month process, meeting two, three, four and five times a week to deal with legislation and then have it tossed out.

Hon. Mr. Drea: I think that has an effect on two fronts. First of all, where there is doubt I think there is a very heavy obligation upon the government to be as absolutely sure as it can that it is not ultra vires before proceeding with the legislation. That's one, and I think that is done.

Second, I don't want to put words in the mouth of the court. It hasn't been a practice in this province. But in certain provinces to the west, it was becoming a pattern for a government announcing a program or changes

in a program and before doing anything in its Legislature, before committing a line to paper, to submit it as a question to the courts for the courts to decide.

Mr. M. N. Davison: It sounds unreasonable.

Hon. Mr. Drea: That's great under the American system. But the function here is the court wants to see what exactly the Legislature has done in the specifics because it's quite often the specifics that negate, rather than the concept.

In fact, with landlord and tenant legislation it is the specific, not the concept. It's how you remove it from the county court jurisdiction.

I'll find out a yes or a no.

Mr. M. N. Davison: The simple point being—

Hon. Mr. Drea: I understand the difficulty.

Mr. M. N. Davison: I don't really know that much about the courts. I know a bit more about how MPPs operate. That may well have been a borderline case. I would really be worried if the government was taking the position that never would they refer a question from legislation before it was passed. It may well be a serious mistake if that would become the government's position.

Hon. Mr. Drea: I'll get something from the Attorney General on it for you, because it really is determination of the—

Mr. Chairman: Are there any further questions on this vote?

Mrs. Campbell: Mr. Chairman, I wonder if I could raise a point. The things which have been happening under rent review—I am talking now specifically about the cost-passthrough concept—and there are a series of problems, as I see it.

First there is the case of a tenant who goes under the landlord and tenant legislation and wins; costs are awarded to the tenant. According to the complaints I have had, the tenant is not given an opportunity to make that clear at the time of any hearing. Those costs are incorporated as costs to the landlord and they assist in his entitlement to an increase in rent.

Second, there is the opposite of that where a tenant loses. Costs are awarded to the landlord under the order and those costs appear, so the allegation goes, in the cost-analysis figure of the landlord. It seems to me in the first case you have a situation where in effect the rent review board has overruled the court in the cost situation.

I spoke to you, Mr. Minister, to give you an idea of this concern so we wouldn't labour the point. But I do think it merits consideration particularly, as I understand it, for an interim hearing some of your rent review personnel have been or are about to be appointed commissioners under the new legislation. I think most of us in the committee fought diligently to avoid that kind of appearance in the new commission.

Hon. Mr. Drea: I just want to make plain they're being appointed as commissioners to continue with rent review and rent review solely.

Mrs. Campbell: I understand that.

Hon. Mr. Drea: I wasn't for the court case. I don't like the appearance either.

Mrs. Campbell: No. Do we have some assistance on this specific?

Mr. Kumer: On the question of costs, Mrs. Campbell, if I understand you correctly you are talking specifically about professional fees that are incurred in connection with rent review hearings themselves.

[1:00]

Mrs. Campbell: I am talking about those cases where a tenant under the existing legislation goes through the landlord and tenant process where an order of one kind or another is made, particularly with reference to the costs. I have given two examples of the kinds of cases brought to my attention.

The fact is the tenants have been frustrated because they try to raise that issue when it comes to an analysis of legal costs. They have been denied the opportunity to express that, according to the allegation, and as a result this is lumped into the total legal cost picture presented by the landlord as part of the legitimate costs of his operation.

Mr. Kumer: If a tenant has gone through a landlord and tenant procedure of some kind in the county court and has been awarded costs, whatever the outcome of that process was, he is able to collect that. That award of costs is a judgement just like anything else, so he is entitled to collect it from the landlord.

Mrs. Campbell: That's right. But why should the landlord then be in the position to collect it back by reason of rent review? That is the problem I am trying—

Mr. Breithaupt: This is the point: if the landlord wins his case he recovers costs; if he loses, the costs he may have to pay to the other side seem to be added into the operating expenses. That seems an interesting sidelight on the situation, as it now is.

Mrs. Campbell: He will win any way, whatever the outcome of the landlord and tenant dispute in the court.

Mr. Kumer: When you are in the context of rent review—the act now in existence is about to expire—it is conceivable, I suppose, that if he has had to pay costs to a tenant on some other procedure, but because rent review has always acted on a unit-by-unit basis, the question of his costs come up in the context of a rent review on a totally different unit with a totally different tenant. They are two different issues, but that doesn't justify it; it is an interesting sidelight.

I don't think you are disagreeing that professional fees incurred in connection with the operation of a building, however they arise or whatever, whether it is a landlord and tenant matter or whether he incurred professional services of some kind in connection with the building, are costs that have to be looked at.

I think what you are saying is that certain of those costs and fees should be treated in a particular manner to determine rent increases, and you are probably right. Even if you were talking about professional fees incurred for a rent review hearing itself, they are legitimate costs. Both the old act and the new act talk about the costs incurred—I forget the exact words but in connection with the bill.

I think in the treatment of those costs they have to be carefully looked at to ensure, first of all, that you deal with them in a way that doesn't duplicate and doesn't permit additional rent increases from year to year in the future so that you are constantly getting them back when you've only incurred them once. I think you are quite correct. I think it is an item that, as far as the commission is concerned, we will have to look at and ensure that it is properly done.

If you have an item of $300 in connection with a specific item in this year, what you are really trying to do is match rent increases to cost increases from year to year on a consistent basis. I think if that is the time you ever went to rent review and you were to allow the whole $300 as an increase in his costs, if everything else remained the same, you would end up using that as a basis for every year in the future forever. So mathematically some treatment of that has to be made, which means you wouldn't get the entire increase. You would get some portion, perhaps even a small portion.

But you are quite right. By raising it that is one item that you would have to treat in some other way.

Mrs. Campbell: I just want some assurance.

Hon. Mr. Drea: Perhaps Mr. Williams might be able to help.

Mr. P. C. Williams: Thank you, Mr. Minister. Mr. Chairman, my name is Williams.

I have been consulting with Miss Susan Lang behind me, who is counsel to the Residential Premises Rent Review Board. Although I will let her speak for herself, I don't think I'm going to be asked to change this statement that neither the board nor the program knowingly have ever approved of a cost passthrough in the situation which you previously described—knowingly.

Mrs. Campbell: Would you like to have some specifics?

Mr. P. C. Williams: Yes, we would be very pleased to investigate them and try to resolve that problem. As you pointed out, the situation does not seem fair; where a landlord wins, he wins, and where he loses he wins on his costs. We would be very pleased to look into them. It might have been that the landlord has disguised the costs in some other way and that they have actually been passed through.

Mrs. Campbell: According to the allegations made to me, the difficulty is the tenants have tried to explain a situation and have not been permitted that opportunity. So there are perhaps two areas. The third one that came to my attention, which bothers me terribly, is actually flowing from the same building.

The landlord was challenged in that he had not provided verification of his costs. The hearing was at night and the landlord's representatives said, "Oh well, if we have to we have to." They adjourned for a short time, arrived back with some boxes of vouchers and things and obviously nobody was going to sit and go through any vouchers at that time. The existence of boxes with something in it was accepted as sufficient evidence of support of the evidence given at the hearing. I just don't want any more of this kind of thing to continue.

Mr. M. N. Davison: Full weight of the evidence.

Mrs. Campbell: Full weight of the evidence is the weight of the boxes, I think.

Mr. Kumer: Do you know whether anyone gave any evidence under oath?

Mrs. Campbell: No, it was representatives of the company who were, I understand, quite properly reprimanded because they did not produce verification. This is alleged to have occurred. If it did occur—I happen to believe the people who came to me were telling the truth—it's something that you cannot allow to continue under the new legislation. And those who are continuing

have to be very much aware of that kind of procedure.

Mr. Chairman: When you hear some of these horror stories around the province, Mr. Williams, I would like to mention to you and I say this as an opposition member—how fortunate we are to have somebody like Mr. Green in the Etobicoke office and his staff who do an excellent job. I have never had any complaints against them. I don't want you to necessarily pass that on to Mr. Green. I say in all honesty that he has done a good job.

Mr. Bradley: I have two brief questions for the minister and it is in regard to the justification of costs in the rent review process. I get complaints from time to time, as all MPPs do, that some landlords use the method of charging their own time and the time that a wife or a member of the family might put in at such things as shovelling snow. Of course they can establish a rate somewhat higher than one might expect a person doing that job might ordinarily get as part of the justification process. I have had concern expressed about that particular method of gaining an increase. Have you any specific guidelines that you issue to your people now in that regard?

Hon. Mr. Drea: Mr. Kumer will answer that.

Mr. Kumer: First of all the issue of guidelines is one that is being addressed at the moment. We will have some in the very near future and we will have more as time goes on, all of which will be public, by the way, as they are required to be under the new act.

Mr. M. N. Davison: Have you considered using the same pay scale as is paid domestics in this province?

Mr. Kumer: I don't want to get into the issue of domestics. The question of work done by an owner himself rather than actually incurring a cost to someone else, to to some third party, I think is one that has always been addressed by rent review.

The issue you raise is whether the rates are comparable. I think that any guideline we would consider would obviously say as a basic principle they should never be higher. It then becomes a question of whether you have struck the right rate. As a fundamental principle, sure, they should never be higher.

Mr. Bradley: The other things, of course, are these additional charges that are tacked on for so-called luxuries, such as the air-conditioning, there's perhaps $10 a month extra for that; and to provide space for an extra car there is $10 a month extra there. Is that another way you find people use to get around it?

Mr. Kumer: No, they shouldn't, because rent is rent. Rent is paid for the accommodation plus all the services and facilities that go along with it, so if the unit is being rented at whatever figure, $200 a month, which included the parking and air conditioning or anything else, then you can't merely segregate all those items and start charging separately for them and increase all of them and get around the provisions of either the old Rent Review Act or the new part of the Residential Tenancies Act.

Mr. Bradley: I suppose the other method of attempting to get around it or of justifying the cost is this idea of refinancing. Have we solved that problem yet? I won't say in all cases but oftentimes absentee landlords who have somebody else running the building and they're usually—I know you people in Toronto will smile at this—they're usually Toronto landlords.

Mr. Kumer: The ones in Toronto refer to the Swiss landlords.

Mr. Bradley: Out in the hinterland we have complaints that they are really refinancing and then justify their increased costs through refinancing, which may or may not be necessary. In many cases people would say the purpose of refinancing is to further their own financial position at the expense of the tenants. Have we found a way of getting around that?

Mr. Kumer: No, because the approach the rent review takes, or at least the approach the tenancy commission will take and has taken in the past, is that additional financing that an owner puts on a building will not be used to justify any rent increase unless the funds are used in the building itself or to the extent that they are used. A landlord would have to trace the funds, show how much of the funds, if any, have been used in the building, either for improvement or renovation or whatever, and that amount will be considered. If he has financed or refinanced or put additional financing on merely to draw equity out, it will not be used as a justification for any rent increase. That's the basic approach.

Mr. Bradley: When a final decision is rendered by the local officer, is it your instruction that they provide written justification for the decision to both parties? I had a complaint from a landlord in this specific case. For financial purposes the landlord wanted some written justification to look at

how he might approach the board next year and so on and was unable to get that information. Is that your ordinary policy?

Mr. Kumer: No, I am surprised that he didn't, but the question now with the new act becomes academic. One of the improvements, among many, of the new act is that the tenancy commission is subject to the Statutory Powers Procedure Act. That act requires that written reasons be given upon request.

As a matter of policy and approach, we have thought about it and we are still wrestling with the question of whether we ask all commissioners to give written reasons in every case. I don't think we will go to that, but certainly if any party ever wants written reasons he is entitled to and must be given written reasons.

[1:15]

On the other section dealing with appeals in the absence of written reasons where a party hasn't requested it, if they do want to appeal then the commissioner is bound by our act to provide written reasons.

Mr. Bradley: Thank you, and the final question I would ask is I guess a policy question. I listened to Mr. Philip discuss particular co-operation in one specific area, which is very good to hear. I found that by and large dealing with the civil service that that kind of co-operation is there.

Is there any special instruction—I know this minister is always interested in this—to the people in rent review offices on how to deal with the public in a pleasant manner, rather than saying for example, "If you don't like it, move," or words to that effect? There is a nice way of saying it.

Also, when someone requests this kind of information and justification there is a nice way of dealing with the public. This minister in the ministries he has been in has been concerned about that. Do you send out, or do you feel it is really silly to have to give instructions on how to deal with this?

Hon. Mr. Drea: I think that over a period of years those instructions have been set out and I would be very concerned if the remark, "If you don't like it, move," was ever made to anybody because the person who said it wouldn't be working the next day. If you do have some particular concerns if you would give them to me I will look at them.

Quite often in the heat of a rent review hearing people sometimes misinterpret something but there's no excuse over the counter, inside the office, or what-have-you for telling people that, period. Occasionally, when it comes up, there has been a long discussion and it gets into a philosophical one, but I suppose they eventually come to a decision that the law has prescribed this amount and your alternative would be to seek accommodation elsewhere. I don't like the connotation of, "If you don't like it, move," or "We haven't got time to do business with you." You may come in on a very busy day and we don't have time to do business with you that day but we should send somebody out to see you at the first available opportunity.

If any member or anybody else does have reports about that, if they would give them to me they will be taken care of immediately.

Mr. Bradley: A very quick comment. I know that the OPSEU does not like the term "civil servant" used, but it would be very nice if across the province—and I'm sure we all work towards this—if the, if you want to call them servants, if the word "civil" was something used in practice.

Hon. Mr. Drea: Mr. Bradley, I will tell you my policy and it is very simple. I will forgive mistakes; I will forgive errors; I will forgive almost anything but I will not forgive discourtesy. And I think everybody who works for me knows that.

Actually these people in services, Mr. Davison, maybe in fairness these people are not civil servants they are public employees, because they are on a contract basis, but I understand the point.

Vote 1508 agreed to.

Mr. Chairman: We have postponed votes 1503 and 1507 and we are also at liberty, in our next session or in the last session next Wednesday, to deal with any ends that people want to come back to with the minister.

The committee adjourned at 1:18 p.m.

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Government
Publications

Ontario

No. J-12

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of Consumer and Commercial Relations



Third Session, 31st Parliament
Thursday, October 25, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 3:29 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS
(continued)

On vote 1507, liquor licence program; item 1, Liquor Licence Board of Ontario:

Mr. Chairman: Order, please.

Mr. Minister, do you have any opening comments on this particular vote?

Hon. Mr. Drea: No, Mr. Chairman. I think we should bring to the table Mr. Eber Rice, who is the chairman of the Liquor Licence Board of Ontario, and Mr. Russell Cooper, who is the executive director.

Mr. Breithaupt: Mr. Chairman, there are a number of themes we could discuss as we look at the liquor licensing operations within the province. First of all, I'd like to hear from Mr. Rice or from the minister, the criteria on which licences are issued. I noticed, just to take one example, the licence activities for the week ending October 6, and in that report, along with a number of transfers, of course, there were some 21 new licences granted for that week alone.

I'd like to hear from Mr. Rice, information as to the present number of licensed establishments, whether additions to licensing are going on at a pace of 20 or so per week, whether there are any licences turned down, and if so, for what reasons, and whether we are really using the liquor licence board as a mechanical approval of establishments with no particular use of any of the traditional judgement calls as to locations of premises, as to the communities in which they may be located, or any of the earlier rules with respect to the opening of new establishments.

While we're dealing with that theme, I'd like to inquire into the various classifications of establishments. I know we've seen in the press on a number of occasions references to the problems the wine bars have concerning the balancing of food and beverage. We notice the term "pub," as such, is one that isn't welcome. I think of those two themes or categories, the wine bar concern. I'd like to hear the thinking of the minister and of Mr. Rice, and Mr. Cooper, too, on the practice of defining establishments. The categories that you have are known to us, but I would like to hear what your views are on the new categories, and if a variation of rules for those new categories is something you're thinking about.

Just on those two themes, on the issuing of licences and on the classification of establishments, I'd appreciate hearing your views. Then we can perhaps talk about something else, or perhaps other members would like to raise problems or concerns in this theme. I think perhaps Mr. Ziemba for one has some comments to make on licensing as such.

Hon. Mr. Drea: Mr. Breithaupt, in order to facilitate this, I'm going to make a reply to you in the areas that are policy. On the specific details that you asked about, what the board has as its criteria, et cetera, Mr. Rice or Mr. Cooper can best answer that.

On the question of the community involvement in licensing I'm very glad to say, as I think it's something that's associated with me, that I think to a very large degree, in the last year, the community has become involved. I think that as members you will have noticed a very significant downturn in your mail or your communiques about why the community didn't have a voice. I regard the views of the community in terms of land use as very valid. At the same time I emphasized to the community—and the board has as well, because the board, and I commend it for this, has gone out to the community to explain what the community involvement can be, and quite frankly, to tear away the shroud of mystery around liquor applications.

When I first assumed this portfolio, I found out, particularly in one meeting that was arranged by the member for Beaches-Woodbine, that people really didn't know what they were protesting about. They didn't have any real idea of the Liquor Licence Act, and so forth. Many of the things they thought were automatic were not automatic. For instance, I suppose someone in the past would have considered them so basic that no one would ever question things like the revocations of licences. They thought that once you had a licence, you automatically kept it forever, that there was no way it could ever be revoked, et cetera.

At that time, with the board, we commenced a campaign, if you want to call it that, of going out to groups. It's not just ratepayers, school boards, and so forth. I think what had happened is that over the years a great many changes in the Liquor Licence Act, while they were known in the Legislature, perhaps to people in the trade and the legal profession simply hadn't filtered down.

Mr. Ziemba: Frank, Frank, that's all nonsense. I'm saying this in all respect, it's easier to get a liquor licence these days than to get a building permit.

Hon. Mr. Drea: I dispute that very much. We'll come to that in a minute.

The community involvement we have stressed, and I think when you're doing these things, you have to be very blunt. Number one, the province has the sole right to license the physical address. That is not negotiable. In other words, that is not a return to local option or something in the 1920's where the community had the right to physically license. The right to license the premises, the physical address, is the sole prerogative of the board.

Secondly, local option as it exists cannot be interfered with.

Mr. Breithaupt: As a matter of interest on this point, could you bring us up to date on the locations in which the local option traditional rules still apply in Ontario?

Hon. Mr. Drea: West Toronto, which has had a liquor vote two years ago—when, three? In any event, they've had a relatively recent one in west Toronto. There are still hundreds.

Mr. Breithaupt: But of the smaller townships and municipalities, perhaps. As I recall, the west Toronto urban area is the only urban—the largest urban area.

Hon. Mr. Drea: I wouldn't say. There are some pockets in urban areas, perhaps not as big or not as identifiable as west Toronto. There are some around Peterborough, Woodstock—

Mr. Breithaupt: Areas that become annexed to a community.

Hon. Mr. Drea: That is usually, at the time of the annexation, one of the conditions on annexation as it was in west Toronto and in north Toronto—a portion of north Toronto, I think—that one of the covenants was that liquor could not be introduced without the permission of a vote. In other words, just because the place annexing had it, you didn't get it. But none the less, and by and large up until about 1972, the trend was the other way. You had a vote.

All right, the west Toronto one didn't go through. You've had some other ones since that have sometimes gone through; sometimes they don't. In many cases, those are very restricted liquor votes. They are asking only for a very limited range, they are not asking for a full range. In the smaller townships, the request for it usually comes on the grounds that they cannot have community functions with a special occasion permit.

Mr. Breithaupt: Or there is a golf club there now that perhaps is interested in a facility.

Hon. Mr. Drea: No, more usually it's a question of their having a community hall for various community functions. We say they cannot have a special occasion permit because it's a dry area. Then they take it up. Isn't it what it was about 20 years ago? To get licensing, it's almost conveniencing for a very limited purpose.

Mr. Breithaupt: This is a reflection, of course, of the decision that was made that the routine granting of special occasion permits in great flocks to avoid really what had been the tradition within the community, was doing by the back door what should properly be done through the front; which is good, I think.

Hon. Mr. Drea: The argument was in those communities, it wasn't so much closing eyes, as the community would say, "Look, we only want one for this festival." The argument in the old days was probably the only one around. I guess to Mr. Rice, who transcends prior to the act and the new act in 1975, they would say, "We're going to take a vote, but we would like to take it at the time of the municipal election or something to save some money. A ballot is expensive." And we would say, "All right, on the basis that you have passed a motion that you're going to have a vote. We'll give you the benefit of the doubt." All right, and they had. Then we found out, and I think this is fair to say from Mr. Rice's and Mr. Cooper's point of view, that somehow the vote just didn't get there.

Mr. Breithaupt: So next year they go back again.

Hon. Mr. Drea: All right, so that was always a question of expense, getting it on the ballot. I'm not suggesting that all these people were insincere and trying to beat the system. They'd finally level with you, and say, "We only want one a year; we're not interested in dining rooms," or whatever. Finally, the law is the law, and we have told them. If you have a dry area now, I can't think of any circumstance where you would get a special

occasion permit. So that has been straightened out.

Mrs. Campbell: Has the vote been straightened out?

Hon. Mr. Drea: Oh yes, they've been taking votes, Mrs. Campbell.

Mrs. Campbell: I know they've been taking votes. I remember the difficulty with the vote in west Toronto in 1967. It was the most complicated thing I ever saw in my life.

Hon. Mr. Drea: Mr. Cooper can probably help me with this. It seems to me that I went to the PMLC in 1975 and I laid it all out before the PMLC that we were very interested in getting a less complicated ballot, and very interested in the proposition of it being able to be attached wherever possible to the municipal to save costs, scrutineers, et cetera. At that time, they seemed highly interested. They thought this was a great idea. Nothing happened for about six months. I went back again and they were still highly interested but nobody was terribly interested in moving, so on that basis, if everybody out there is content and nobody wants to come forward with some other types of proposition, then we will leave it alone. To the best of my knowledge we haven't changed—

[3:45]

Mr. Cooper: In 1975, it was updated.

Hon. Mr. Drea: Yes.

Mrs. Campbell: Now they will have to vote "No" to vote "Yes."

Hon. Mr. Drea: No. We wanted to get it attached, quite frankly, on the municipal ballot. This seemed to be a very easy way. Nobody was terribly interested.

Mr. Breithaupt: No one there was under any particular pressure, because they—

Hon. Mr. Drea: Oh no, they wanted to take it back. They are from various areas.

Mr. Breithaupt: It wasn't a priority matter.

Hon. Mr. Drea: To come back to the community, in terms of the community involvement, we have stressed and I have stressed that it can't be a community involvement that just says, "We don't like alcohol." It has to be a reason, connected with a valid land use. I equate it with a developer coming in on your street. A developer has to justify what he is doing on your street corner to the ratepayers, and you are talking about such concerns as parking, noise, congestion, nearness of schools and a great many other very practical factors.

Mr. M. N. Davison: You are talking about municipalities other than Hamilton, because that's not how it operates there.

Hon. Mr. Drea: The municipality has every right. We have written to clerks and everybody else vis-à-vis community involvement. Where the community has very valid concerns in some of those areas, or any of them that I have mentioned, you will notice that there have been refusals, very controversial refusals. One was in Scarborough, and not only did the board refuse it because there was proximity to a school, but the appeal tribunal upheld that, which I think is a very important decision. It upheld that as a very valid reason for not issuing a licence. This was the conversion of a non-alcohol-serving restaurant into a licensed premises. I think that was a very important one, because, frankly, in the beginning, I think the board was concerned about how would the appeal tribunal or perhaps the divisional court view the entrance of the community as a valid party.

Would they go back to the thing and say no, that once a community votes wet or it is wet then the board has to rely solely upon the criteria word for word in the liquor act? That decision means the board can take a very broad perspective provided the contribution of the community is valid. As I say, it can't be something like "Alcohol is bad; therefore we will not have licensed premises." There has to be a reason, because once—

Mr. Breithaupt: Or we will not have another licensed premise.

Hon. Mr. Drea: What I am saying is once you have voted wet, once the vote has been wet—certainly in a dry area you can say, "No, we don't want to change," but once the area is available for licensing, once the majority has said that, then I think you get into the other criteria and the number of premises, the type of premises being converted and so on. I think this has worked out very well in the last 12 months.

In addition, there has been the chronic irritation that people in the larger urban areas can't find the notice ads in the newspapers. In a smaller community or one where one newspaper serves the entire area, such as yours, people do spot them and if they do want to raise objections they do.

When you get into major metropolitan areas, where no one publication really blankets, you get into some difficulty. We will shortly be introducing something that the board has been working on for some time. We will have the publication of applications for licences or for a change of an existing premises to a licensed premises handled exactly as the municipalities handle an applica-

tion for rezoning; in short, a sign which draws the attention of the public to the fact that there is a hearing, where they can get more information on the hearing or express their views.

In the case of an existing premises, such as a restaurant that is being converted to a licensed premises, it would be in the window. Where you have a place that is just being built or under construction it will be the same as the municipality now has.

Mr. Breithaupt: On the zoning matter.

Hon. Mr. Drea: Rather large type will direct your attention to this, and that is, of course, in addition to the notices. As I say, the board, in addition to the specific criteria of the act, is treating a licensed premises in terms of land use. In other words, is it an intrusion on the neighbourhood, is it conducive, et cetera?

So in terms of the community and the community standards, I think they have gone a long way in a year. The reason I say "community standards" is that obviously from neighbourhood to neighbourhood or from community to community there will be different approaches by the municipalities.

In other words, some say because of parking or some local condition they don't want things here, here and here, and others will say they have parking and as long as it is in the area and the noise factor or the congestion doesn't bother people they have no objection.

You might have one relatively close to a school and it is the type of a school where people eat in the school rather than being outside and are bused home. They don't have the same concerns as you do in a school where people walk to and from.

So there is a very concerted effort by the board to recognize community concerns and to accept the normal criteria of a community as a valid objection. Furthermore, there is an encouragement for the community to participate in the actual hearing, because they are going to lengths that have not yet even been attempted to draw the attention of the community, to say that notwithstanding what the law says, that it must be advertised, we recognize the fact that there are changing reading habits and communication habits, we are going to put it right there, right there, and to get away from people saying, "Well we didn't know or we would have come." I don't think you can ever really eliminate the possibility of not knowing.

Mr. Breithaupt: The passers-by would be the most likely to be interested.

Hon. Mr. Drea: Yes, they live in the neighbourhood. The municipalities in the past used to advertise. They did not put big signs up. Okay. They do now, because they had to face the very same thing that the board is now facing. Of course, it may be redundant in an area like Kitchener-Waterloo where there is one publication devoted to the whole area. It may be redundant there, but none the less there may be outlying areas where people wouldn't have noticed the ad and so on.

Maybe Mr. Rice or Mr. Cooper could address himself to your specific point.

Mrs. Campbell: Tell me, to what extent, when there is an application for a licence or for a change in the type of licence, does the board take into consideration, and at what stage, any labour problems which might result from that? I'm thinking specifically of a case in my riding where there was, in essence, what I would call a pub operation.

Hon. Mr. Drea: The Red Lion?

Mrs. Campbell: Yes. Then we got the problems with topless dancers and all the rest of it. Several people to my knowledge protested on various grounds, of which the labour factor was one.

At what stage would the board be concerned about that, and what kind of influence would it have on their decision as to the licence itself? In that case there were several factors and I don't know the weight attached to that one.

Hon. Mr. Drea: In the end it turned out to be highly successful because the public turned its back on the place and it reverted to what it was.

Mrs. Campbell: It reverted back, yes. I don't think it really got going because of the labour problems.

Hon. Mr. Drea: The lady with no clothes on who was shooting pool got featured a little bit.

Mrs. Campbell: I know, but—

Hon. Mr. Drea: All right, at that time there wasn't the sanction that the municipalities can put on—it was put on last year—so it was really beyond the capability of the board to act on the one hand that you are featuring a particular type of entertainment which would provoke community controversy—I shouldn't have said "entertainment," I should have said "service," because these were waitresses. This wasn't on the stage.

At that time I would say, although the board may want to say something else on it, that they had to treat it just the same as an operation of a conversion, which was per-

fectly permissible, indeed had been encouraged, under the act from 1968 onwards, of a beer parlour or a public house into a dining facility. That was the Red Lion application. That was to upgrade the former beer garden. Those things were encouraged.

Mrs. Campbell: The beer garden was, I guess, one of the most popular places—

Hon. Mr. Drea: Yes, for students.

Mrs. Campbell: —for people living in apartments nearby. It was open in the summer, you could have soft drinks, or you could have beer, or I presume ale, and it was a friendly gathering place. People enjoyed it. I don't know why it would be encouraged to change, to be honest with you.

Hon. Mr. Drea: From a public house to a dining facility, it was to get food into it. Mrs. Campbell, in fairness, in 1968 the public of Ontaro wanted an upgrading of beer parlours. I don't think there is any argument about that.

Mrs. Campbell: No, I think generally speaking you are right.

Hon. Mr. Drea: What we are talking about today is, first of all, under the provisions of the amendments to the Municipal Act last December, the city of Toronto would play a very large role in the conversion of that place, and I would suggest to you—at least knowing the views of the council of the city of Toronto at the moment on this, and I don't think they have changed very much over the past five or six months—the city of Toronto simply would inform the board that it didn't want that type of entertainment or service in that area and that would be the end of it.

Mrs. Campbell: I don't know, I guess I must have missed something in translation. I thought that was turned down.

Hon. Mr. Drea: No, the Red Lion was not turned down.

Mrs. Campbell: I can't see that it is upgrading. To go from having a pleasant, almost like a club sort of operation, to a topless waitress full operation, with the old waiters and waitresses just being tossed out on their ears, how you call that an upgrading I will never understand.

Hon. Mr. Drea: Oh no, you did miss something in translation.

Mrs. Campbell: And near a school, a secondary school.

Hon. Mr. Drea: What I am saying is that at that time there were no sanctions on that particular type of service or entertainment. The application was one that didn't involve who was going to serve the drinks and in what manner. The application was to change it from a public house to a dining room, and at that time the board had its hands tied.

Mr. Breithaupt: Now the municipality can become involved in the type of operation which it is to become.

Hon. Mr. Drea: Not only that, but the municipality can say no, period. In that case I agree with you, Mrs. Campbell. Even with the granting of the licence it was not an upgrading. It changed a relatively pleasant place with modest prices, one where there was very little difficulty, et cetera, of any description, with anybody, certainly it wasn't an intrusion in the neighbourhood, it was a service to the neighbourhood, into an intrusion in the neighbourhood, because the people who once frequented it would no longer frequent it.

They had to go elsewhere, a considerable distance, to find another place with relatively modest prices. The nearest one to that was one of relatively high prices. It also caused the intrusion of a new and different type of crowd into that particular area, and not just at lunch time, but throughout the day and right through.

[4:00]

As I have said, that one had a happy ending because they just didn't draw. Somebody up on Bloor Street got the same idea, I think.

Mrs. Campbell: Probably the same people.

Hon. Mr. Drea: The same person, yes, but he didn't do very well. I think that's a very valid point.

I have one now. I received a letter this morning from Shirley Carr, the executive vice-president of the Canadian Labour Congress. She says she is very concerned about a switch in costumes at an hotel in Ottawa, and that she is going to discuss this with the board later today or tomorrow. The letter concerns a number of waitresses who are required to wear costumes that do not permit the girls to wear any undergarments whatsoever, because of the cut of the dress. Some of the costumes are not only cut tight, but also, in addition to not allowing the use of any undergarments at all, are of a very flimsy material.

The waitresses are unionized. However, Mrs. Carr writes that since the introduction of this type of costume, many of the waitresses are subject "to sexual harassment." She uses those words, but doesn't go into any more detail because she wants to discuss it with the board. Quite frankly, that is something we are going to have to take a look at because this was my concern a year ago.

It doesn't involve entertainment. When you're an entertainer you're under the Criminal Code. But when you're employed in a service capacity, it is my concern that people shouldn't be exploited or degraded because of their sex, primarily female. It could be male, I suppose, but you shouldn't be exploited in an occupation of serving or service, and these things shouldn't be thrust upon you.

That's almost the same type of thing, though probably not as dramatic as the one that occurred in that conversion, because this place is a dining lounge. They didn't need any particular type of conversion, they just outfitted their help in a little different manner. They have also told the help, as I understand it, that they wear those costumes or find another job.

Mr. M. N. Davison: I had intended to resist talking about the temptation I have to talk about the issue of topless waitresses. My recollection of how that matter developed last year is a great deal different from yours. I don't think the solution that the Ministry of Intergovernmental Affairs finally came up with is much of a solution. I think it's reprehensible that your colleagues in the government and you didn't accept the only solution that was available, which is the solution that the member for Hamilton East (Mr. Mackenzie) proposed at that time; to put it under the Ministry of Labour, which would have solved the problem. Instead, we have left it up to this sort of local option routine, where the municipality can do something about it if they want.

That is going to come back time and time again, as long as we leave it like that. I don't think we can, or should engage, ourselves in patting ourselves on the back about the way we solve that problem, because we bungled it badly. I won't go into what I think are the reasons for the bungling last year, but I don't think it's something about which we can be terribly happy.

The matter I wanted to take up with you is the question of lifestyle advertising.

Hon. Mr. Drea: Mr. Breithaupt asked could Mr. Rice answer his questions because the rest were all direct administration.

Mr. Chairman: Mr. Breithaupt isn't here.

Hon. Mr. Drea: Do you want me to take that, and then come back to it?

Mr. M. N Davison: I can never remember, is lifestyle advertising under the Liquor Licence Board of Ontario?

Hon. Mr. Drea: Yes.

Mr. M. N. Davison: It was the spring of 1978 or 1977–1978 I guess—when the new guidelines were brought in; March, April?

Hon. Mr. Drea: Yes, March, April.

Mr. M. N. Davison: Of 1978. Those guidelines again didn't deal with the problem, but they went a big step in going after lifestyle advertising, especially with the breweries. My impression at the time, from reading those regulations, was that the companies that had lifestyle advertising currently approved, or that was currently on the air, continued with it for a 12-month period, and that any new advertising of that sort from the breweries would have to be approved by the appropriate people, I guess in the liquor licence board or the ministry.

I wasn't terribly happy about the fact that we allowed the continuation of some of the worst of the offensive or lifestyle commercials at the time. I don't think that was a good decision. But that having been done, it's done.

What I can't understand is how, now a year and a half later, there's still so much lifestyle advertising of beer on television. Is it that you've set your standards at a wrong level; could that be the answer?

Hon. Mr. Drea: I will let Mr. Cooper go through the whole thing, Mr. Davison, because it is the responsibility of the board and specifically underlined as the responsibility of the board stemming from the controversy over major junior hockey promotions. At that time you recall—

Mr. M. N. Davison: No, no, I am not concerned about that.

Hon. Mr. Drea: No, but it's all in the same, I just want to emphasize this. When it wrestled with that one, which was part of the advertising guidelines, the cabinet directed the board—it wasn't the minister, it was the board—to look at the advertising or promotions, in the light of balancing off on the one hand the need of the industry and the need of sombody who is going to benefit from it in the case of a promotion like junior hockey, as against the community standards and values. The cornerstone of it was in a spirit of restraint.

Mr. M. N. Davison: I don't know if I'm having a lot of difficulty, through these estimates, posing the questions I mean to, or whether you choose to answer things other than what I have asked. But I was trying to talk about lifestyle advertising as it appears on television.

Hon. Mr. Drea: Yes. I've just told you what the guidelines are, as reinforced by cabinet even later than you said.

Mr. M. N. Davison: I know what the guidelines are. What I'm asking is why we've still got lifestyle advertising for beer on television.

Hon. Mr. Drea: I dispute the fact that you have as much lifestyle.

Mr. Cooper: Maybe I can answer that. One of the most difficult things I've ever done is to spend two years trying to find a definition of what is lifestyle. Everyone you ask for a definition of lifestyle will give you a different definition. We work with the advertising industry which, of course, has a big investment in this and would like to come up with something; we work with the federal Department of Health and Welfare which is very interested in the problem in defining lifestyle. They held a number of conferences in which we participated. We work with the Addiction Research Foundation people with alcohol and drug concerns, and with a whole series of quite a range of things in an effort to come up with an acceptable definition: How do you define lifestyle?

Out of it came a definition. In essence, the definition at that time says you cannot imply, directly or indirectly, that social acceptance, personal success, business or athletic achievement may result from the use of the product, or be a significant factor in the realization of any lifestyle or enjoyment of any activity.

Now we have been through a process with those guidelines, and you must remember that it took two years to develop them. As agreement came on what would be in the guidelines, the advertisers didn't wait until the end of the two years; they changed as agreement came into being. The process of change in advertising has taken place over the last three years.

When the cabinet said to us, "We want you to take a look again at lifestyle advertising," which we've done over the last four months, we looked at every ad that's on the air at the present time. We compared them with the advertising that was on the air three years ago. We think there's been a significant change, though we think there are some ads currently airing that got through the approval process—which is our staff approval as well as the CRTC approval in Ottawa—that we're still not happy with. As a result of that, the approval process is now being changed.

Basically, what happens is that an ad is submitted to us in rough form with a story board. We look at it, we approve the concept; it then goes to the CRTC in Ottawa. We sit on the CRTC committee, along with a number of other provinces and the federal Health and Consumer and Corporate Affairs people. They subsequently approve the ad and then it's produced.

One of the things we've discovered in the last year is that between approval and the actual production there can be very insignificant changes. For instance, the director who's directing the film may do something slightly different that can change the whole concept of that ad. Once it gets on the air, having spent $200,000 or $300,000 in the production of the commercial, we have a problem in that we have an ad that has a little problem.

Mr. M. N. Davison: That's a concern?

Mr. Cooper: To us?

Mr. M. N. Davison: The amount of money spent by the brewery to produce the advertising?

Mr. Cooper: Not really.

Mr. M. N. Davison: It's not a concern to you?

Mr. Cooper: They have an approval from the CRTC and from us at that time to do the thing. The changes they have made do not in essence contravene the guidelines, but rather it is the putting in of something in the background, or something they do a little differently.

What we have now said in the approval process is, "You submit the story board to us, and after it's been produced in rough cut form, we want to see the television commercial before we give our final approval." The proposal is out now to all the advertising people for a change in the guidelines, among a number of changes that are going in. They will have to submit what is called a rough cut, which has pretty well 25 per cent of the money, and you see everything that is going to be in the advertisement.

In addition to that, they have to submit to us a copy of the ad after the commercial has been cut, so we get the final thing. They've also been told that if there are any changes at all, as far as we're concerned the ad will be turned down, even at the final process.

Mr. Cureatz: Could I ask a supplementary on that? This area also has been of slight concern to me.

Mr. M. N. Davison: Slight?

Mr. Cureatz: Large. To have some input from an individual who recently has not had the opportunity of watching a lot of television, I remember when the former minister brought in the change to the lifestyle advertising. My wife and I were discussing it and

thinking in general terms that it was probably a good approach. The one advertisement I remember was the people drinking beer in the boat. I've often thought, if you're going to be fair, you should be mentioning how many boating accidents result from that kind of thing, so I haven't seen that one. Now, lo and behold, they're drinking beer around the campfire. We've moved from the boat to the campfire.

Mr. M. N. Davison: Supposedly we'd got rid of lifestyle advertising.

Mr. Cureatz: Yes, and this is where I'm a little concerned. You very verbosely try to express exactly where you are going. I know it's difficult to determine.

Mr. Breithaupt: Sliding down that chute could be a little dangerous.

Mr. Cureatz: That could very well be so, but on the other hand, somehow driving an earthmover and going back to quench your thirst seems not too repulsive to me. That's just how I look at things.

Mr. M. N. Davison: You'd do a lot more damage with an earthmover.

Mr. Cureatz: It's after drinking the beer.

Mr. M. N. Davison: I thought it was lunchtime.

Mr. Cureatz: I don't think it's lunchtime. It seems to be—

[4:15]

Mr. Cooper: I think one of the significant things in almost all those advertisements you see is that in 90 per cent of them you see the sun going down as they leave the activity and head to have a drink.

Mr. M. N. Davison: That makes it non-life style?

Mr. Cooper: It doesn't make it non-life style. Take the question of the bonfire one for example; if you look at that bonfire act again you will see that it takes place in the backyard of a house. It doesn't take place on a beach, it doesn't take place in the forest, it takes place in a residence which is a legal drinking situation.

Mr. M. N. Davison: Mr. Chairman, if I can go back to the minister I—

Mr. Kerr: They're advertising the beer or the booze.

Mr. M. N. Davison: When those regulations were brought in, those guidelines were brought in, it was pretty clear that within 12 months we would have seen the end of this kind of lifestyle advertising. We haven't seen it. It is still on TV, it is still bombarding the airwaves, and it is still reaching people under the drinking age. For all of the reasons that the government moved as they did then, I think there is a case to be made that the government is going to have to do something further.

Hon. Mr. Drea: Mr. Davison, if I could interrupt.

Mr. M. N. Davison: I would like to ask you a question. Are you willing to go to cabinet and propose that advertisements for beer be removed from television?

Hon. Mr. Drea: No, I am not.

Mr. M. N. Davison: Why not?

Hon. Mr. Drea: Because I will tell you exactly what would happen if we did that. We said that if we urged that advertising for alcohol, and I presume you would want wine off too—

Mr. M. N. Davison: Beer. I am asking a question about beer.

Hon. Mr. Drea: All right. I'm answering your question.

Mr. M. N. Davison: Good.

Hon. Mr. Drea: I'm answering it. If we removed beer from the Canadian television stations, all that would happen is channels two, four and seven would enjoy unprecedented wealth beaming it into here and so forth. It would not be an answer.

I draw you back to 1963 or 1962 in this province when at that time no publication could take liquor advertising—period. I make no bones about the fact that the allied printing trades, and I was involved with them at that time, came to this government and pointed out that Weekend Magazine in the province of Quebec was getting as thick as a telephone book with all kinds of alcohol advertising, that there were jobs being lost in Ontario, that publication was being distributed in the newspapers of Ontario. They couldn't be stopped then, and can't be stopped now, since the courts rule what's legal at point of origin, not at point of sale. Ontario changed on behalf of the jobs that were being lost.

The decision to put beer on television or to allow beer on television is one that quite frankly I think the CRTC does control, although I would say to you if a province requested it, it probably would go along with it. But what are you accomplishing? You are just transferring it from channels five, nine and eleven to two, four and seven.

Mr. M. N. Davison: In Ontario on our TV stations, do we have advertising for liquor?

Hon. Mr. Drea: No.

Mr. M. N. Davison: Why not?

Hon. Mr. Drea: Isn't there a ban?

Mr. Cooper: No, that was—

Hon. Mr. Drea: There is no ban?

Mr. M. N. Davison: Why not?

Mr. Cooper: It isn't banned at the present time but it was written in at their request.

Hon. Mr. Drea: They don't want it.

Mr. Cooper: They did a major study in the US saying that the advertising of liquor did not increase sales, so as an industry they agreed that they were wasting their money on television. As an industry they backed off from television and a number of years ago they approached the government and said, "Look, we don't want to use the medium. Would you put it in your guidelines so that we can't."

Hon. Mr. Drea: Yes, they asked for it.

Mr. M. N. Davison: They approached the Ministry of Consumer and Commercial Relations?

Hon. Mr. Drea: No.

Mr. Cooper: It was the liquor control board at that time that did it, but it was the industry voluntarily—

Mr. M. N. Davison: We have in our regulations a prohibition against the advertising of liquor on television.

Hon. Mr. Drea: At the request of the liquor industry.

Mr. M. N. Davison: And I don't see any reason why we can't have a similar prohibition for beer.

Hon. Mr. Drea: First of all, I can draw you a very apt comparison. The liquor industry in the United States does not advertise on television. It was offered. This makes a difference.

Mr. M. N. Davison: I don't care what they do in the United States.

Hon. Mr. Drea: You have to care because the very same station—

Mr. M. N. Davison: I am a representative of people of Ontario, not the state of New York.

Hon. Mr. Drea: The stations come in here. They watch those stations; you may not, but they watch them. The cable goes all the way up to Timmins. They watch them all over the place. They watch channels two, four and seven as much as they do five, nine and 11. Now you are taking it off the Canadian stations and you are just going to double it up on the American stations. This happened to be the case before it was allowed in this country.

I can recall when Labatt's used to sponsor the soccer game on channel two. They had a channel two truck there. Nobody in Buffalo wanted to see the soccer game. It was on Sunday for the Ontario audience. It was all Canadian.

Mr. M. N. Davison: I think that is a pretty weak excuse.

Hon. Mr. Drea: I think it is a pretty good one.

Mr. M. N. Davison: I think it is a pretty weak excuse.

Hon. Mr. Drea: You are sitting here and telling me that you think—

Mr. M. N. Davison: You are going to allow damaging advertising on television simply because you cannot control what kind of ads they have in the United States. What a cop-out.

Hon. Mr. Drea: Let's get to the point. The most widely advertised product on television is beer. Beer consumption is static, if not declining, in this province. I will tell you that I have the greatest difficulty finding, at all, anything that a person is induced to drink by advertising. I suggest to you that the amounts of advertising that are being poured out now are not to get you to drink; they are to get you to change around from brand to brand.

Mr. M. N. Davison: Why did you give lip service to getting rid of lifestyle advertising for beer on television?

Hon. Mr. Drea: I didn't give lip service.

Mr. M. N. Davison: You haven't got rid of it.

Hon. Mr. Drea: As late as June in the House I said the process was being accelerated very rapidly.

Mr. M. N. Davison: Accelerated very rapidly.

Hon. Mr. Drea: You want all advertising off; that is what you just said to me. You don't even care if it is a bottle on there.

Mr. M. N. Davison: That's right.

Hon. Mr. Drea: You want all.

Mr. M. N. Davison: If I can't get you to take beer advertising off television then the next best thing you can do is to get rid of lifestyle advertising for beer on TV, as the government said they were going to do a year and a half ago.

Hon. Mr. Drea: I suggest to you we are very rapidly getting rid of lifestyle advertising under any definition.

Mr. M. N. Davison: You haven't done it, and you have had a year and a half to do it. That is pretty poor.

Hon. Mr. Drea: We could show you what was on a couple of years ago compared to now.

Mr. Kerr: I was just wondering, and maybe this question has been asked, Mr. Chairman, but is there any idea of the effect of the so-called lifestyle advertising on the amount of consumption of beer?

Hon. Mr. Drea: All I can do is give you the figures, and I don't know what it proves. I personally don't think an advertisement ever got anybody to take a drink. I think they did it for other reasons, but other people disagree. The product most heavily advertised is beer. It is a fact that beer consumption is not growing with the population, that beer consumption is either remaining static or slightly dropping, notwithstanding the advertising.

Wine is advertised relatively infrequently. and personally, in terms of the wine ads, I would suggest to you it is very strongly lifestyle. The lady is in an evening gown, the gentleman is in a tuxedo, or it's very romantic—

Mr. Kerr: And there is a duck.

Hon. Mr. Drea: Wine consumption in this province is growing at the rate of seven per cent per year compounded. I don't think that has anything to do with advertising. It is a phenomenon all over North America, and in other countries as well.

Mr. Chairman: Domestic wine is also.

Hon. Mr. Drea: I am talking about all of them. It is seven per cent, no matter how you split the market. The seven per cent compounds. It has been there for three or four years. This is going on all over the world and it has led to shortages of the product in a great many countries.

Let's consider spirits. Spirits advertise lifestyle. They may appear in Saturday Night and in other Canadian publications, but certainly whisky and so on and so forth—

Mr. Kerr: With a Rolls-Royce in the background.

Hon. Mr. Drea: All right. The ones that advertise the heaviest, I would suggest to you, are the Canadian grain spirits, or Canadian whisky. They are not increasing their consumption. The spirit end of the thing is switching over to light rum, to vodka, to gin. That, I suggest to you, is a phenomenon that is also happening in the rest of the world. People are going from heavier alcohol products to lighter ones.

People are more concerned about waistlines, et cetera, et cetera. Whether you indeed benefit from switching to a lighter alcohol product in getting a trimmer waistline and more health, I don't know. But in terms of the spirit one, I will tell you: The whisky one, if you want to count up the volume and the frequency of printed ads, which is where they like to be, I would suggest to you, while it is not as spectacular as what you see of beer on TV, it is a very sizeable investment.

We have limited them through these guidelines to the industry. We've limited them, and the frequency of those ads.

Mr. Breithaupt: Can we get back, Mr. Minister, to the question which I raised at the first which I'm sure Mr. Rice is—

Hon. Mr. Drea: Well, you were out and I tried to get them to answer, but they wanted to pursue his theory—

Mr. Chairman: Mr. Ziemba I think had a further comment and then we'll go back to Mr. Breithaupt.

Mr. Breithaupt: By all means. Go right ahead.

Mr. Ziemba: I had a comment on Mr. Breithaupt's first question, and perhaps I can answer it for you, Mr. Breithaupt, because I've appeared before the liquor licence board on numerous occassions. I can tell you they are cranking out about 20 liquor licences a week, a little over 1,000 a year, and the turn-down rate is about one per cent. Last year, I believe, they turned down 13 licences. This government's approach to the liquor licence board is an absolute disgrace.

I have appeared with a number of other people from west Toronto before the board, and as far as I'm concerned, it was just a waste of time. The chairman would admit to us time and time again, and I'm not saying this in a derogatory way, Mr. Rice, that his hands were tied by the government. He said, "If you have a complaint, take it to the government. Take it to Mr. Drea. I can't do anything except rubber-stamp these applications."

And that's just what he would do. He'd sit there and rubber-stamp application after application: 20 a week, 1,000 a year. He turned down 13. I suggested that he be replaced by a rubber stamp, to save the taxpayers a few bucks. I don't know how much he's getting by way of salary, but what's the point in having him, and the other two fellows sitting beside him, if they can't make a decision?

He says his hands are tied because in 1975 the government introduced a bill that limited the board's discretion to that which is not in the public interest as being the only criterion for turning down a liquor licence. I would think that's a fairly broad criterion. It turns out that it's not a very broad criterion.

According to the chairman, the only discretion he has is if the applicant's premises do not measure up to the building code, or if there is strong opposition from the neighbourhood. There hasn't been strong opposition from neighbourhoods over the past few years for a number of reasons and, again, it's the government's fault. It's your fault.

When I said it's easier to get a liquor licence than a building permit, I meant that. I've been waiting since last March to get a building permit for a garage. I'm sure a lot of people have got liquor licences a lot faster than that. Do you know why I've been waiting? Because, first of all, when I applied for my building permit, all of my neighbours learned about it. There was great debate in the neighbourhood. People were coming to the door—

Hon. Mr. Drea: What are you going to do in this garage?

Mr. Ziemba: One guy was for it, the next guy was against it. Then we had to appear before the committee of adjustment half a dozen times: plans, permits. I've almost given up on it. What do you do when you want a liquor licence? Just stick in these little tiny ads in the Toronto Star. You can hardly read them. You have to have a thick magnifying glass to read the damned things. There are all kinds of them, usually buried somewhere next to the truss ads on page 87.

Mr. Chairman: Did you say "trust ads" or "truss ads"?

Mr. Ziemba: Truss ads.

Mr. Chairman: I was wondering what kind of liquor establishments you were talking about.

Mr. Ziemba: If you're really interested, look through these ads. You might find one that's going to be opened up at the corner of your block.

Hon. Mr. Drea: You shouldn't be interested at all, because they can't open up anywhere in your neighbourhood.

Mr. Ziemba: We're interested in the whole principle, because we believe the more licences you hand out, the more abuse of alcohol there's going to be. It's as simple as that. No matter what you're going to distribute, no matter what you promote, the more you will increase the consumption, and the more the consumption, the more the abuse.

Hon. Mr. Drea: I don't agree with that. I don't agree with that at all.

Mr. Ziemba: Anyway, what the board is suggesting is that they're going to stick a little sign up—

Hon. Mr. Drea: A big sign, designed by me.

[4:30]

Mr. Ziemba: I had all my neighbours, from three blocks around, canvassed over this one building permit. Why can't you do the same thing for a liquor licence which is certainly going to affect the character of a neighbourhood a lot more than my garage will? Why can't you canvass all the neighbours involved? Then you'll get a reaction. People will come out and they'll say, "Listen, we're opposed to this. We don't need any more booze in our area. So you move over to the next riding."

I don't want to take anything away from the member for Parkdale (Mr. Dukszta), and perhaps I shouldn't be speaking for him, but there are more drunks walking along Queen Street, just a few blocks over from me, throwing up in the doorways in the morning. Some of the proprietors have to drag them out of their doorways to get into their stores.

It's an absolute disgrace the way booze is being promoted in some of these areas in the city of Toronto. It's only for money. Your government sees booze as its number one revenue producer. You're taking in about $600 million a year and just turn a blind eye to all the abuse.

Hon. Mr. Drea: The simple fact of the matter is, in this province 86 per cent of the alcoholic beverages purchased are consumed in the home. Only 14 per cent are consumed in commercial establishments.

Mr. Ziemba: You're not proud of that, I hope.

Hon. Mr. Drea: What do you mean, I'm not proud of it? If people choose to buy alcohol and consume it in their homes—

Mr. Ziemba: No, we're talking about money. You're taking in $600 million a year. It's your number one revenue producer—

Hon. Mr. Drea: It is not the number one revenue producer in this province.

Mr. Ziemba: You're using it to try to balance your budget. Well, what is the number one revenue producer?

Hon. Mr. Drea: The number one revenue producer in this province, I would suggest to you, is retail sales tax; after that, income tax, and after that, quite a number of other things.

Mr. Ziemba: You take in more from the liquor control board and liquor licence board than you do from the Ministry of Transportation and Communications selling licences—

Hon. Mr. Drea: Yes.

Mr. Ziemba: —and all the other boards and other agencies that you've got set up. That's what I mean.

Interjection.

Mr. Ziemba: Anyway, we're moving away.

Interjections.

Hon. Mr. Drea: Before you do, I want to reply to some of those allegations. First of all, Mr. Ziemba, we have a thing, because we presumed Mr. Ziemba would want this, and it can be passed out, explained just what the licensing was during the 12 months ending March 31, 1979, with comparisons for the year before.

Remember, not every liquor licence is for what would be known as a saloon. You've got some homes for the aged that want a licence. You've got a boat that wanted a licence. You've got club licences. You've got a whole variety of licences, including restaurants. Bear in mind that the province of Ontario no longer issues licences that allow you not to serve food. All the licences issued are for dining lounges, where 50 per cent of the sales have to be food.

Mr. Breithaupt: Yes, but we're going to get on to that—

Hon. Mr. Drea: Okay. Now then, the question has been raised about the number of outlets. Even with the expanded number of outlets, and this has been in process since 1968—that was the very fundamental change where restaurants could have this—the amount of alcohol consumed in licensed premises is around 14 per cent. In terms of home consumption, it is 86 per cent.

If you want to go back to 1940—well, no, let's go back to 1968. I'm very glad to table these. Notwithstanding the changed social habits—and I think that has to be identified; people are eating out now, people are consuming wine, et cetera; they didn't used to—in 1968 when the licensing became on an expanded basis, particularly with the restaurants, it was 8.6 per cent consumed in licensed premises, which at that time were basically beer parlours—basically. There were lounges, but basically the bulk of it was in beer parlours. Even with all of it today, it is still ony 14 per cent.

When you're talking about outlets, you are talking about people purchasing at the LCBO and taking it home, or consuming it in somebody else's home without charge. Now then, you're asking about—

Interjection.

Hon. Mr. Drea: Mr. Ziemba says the number of outlets is leading to increased consumption.

Mr. Ziemba: It is.

Hon. Mr. Drea: And I'm saying it isn't.

Mr. Ziemba: Your figures are phoney, Frank. These guys at the outlets are getting around the 50-50 formula by bringing in booze through the back door. You know it and your inspectors know it—

Hon. Mr. Drea: You show me one place—

Mr. Ziemba: —and they've told me that.

Hon. Mr. Drea: All I say to you is, if you have some evidence that somebody is bringing in adulterated liquor, or liquor that was not purchased with the commercial levy—

Mr. Ziemba: They are buying it in the regular way of trade and they're bringing it in the back door to keep their 50-50 ratio down.

Hon. Mr. Drea: If we catch them with a bottle that was purchased in a store where there is only a 10 per cent retail sales tax instead of the commercial levy, it won't be just this ministry that joins in the prosecution, it will be the retail sales tax people as well.

Mr. Ziemba: They are shafting two levels of government in doing so. I have heard this from your own people.

Hon. Mr. Drea: I would love to know which inspector ever told you that.

Mr. Ziemba: You have only got a handful of inspectors monitoring the system.

Hon. Mr. Drea: That is not true.

Mr. Ziemba: You have 6,000 licensed outlets.

Hon. Mr. Drea: The question of outlets you have raised. You are suggesting that in your view the number of outlets determines the consumption. With more outlets today, alcohol consumption has been dropping for the last three years in this province on a per capita basis at the rate of about one per cent per year—period. Obviously the number of outlets doesn't necessarily provide additional consumption.

That doesn't mean you should have an outlet on every street corner, twice in a block. I know some people insist the number of outlets is tied to consumption. I will tell you, Mr. Ziemba, if a person wants to drink, it doesn't matter whether there is a licensed premise within one mile, two miles, or a block; they will go and get it. What has to be put into perspective, in terms of alcohol consumption, is the present society in which we live. That has a great deal to do with consumption.

I draw your attention to the fact alcohol is primarily a product consumed in the home

or in somebody else's home. It is not primarily consumed in licensed premises. We can argue the philosophy and so forth, and no two people can agree on this. I can see that. I just wanted to put that into perspective. If Mr. Rice or Mr. Cooper have anything else to say, go ahead.

Mr. Rice: Mr. Chairman, Mr. Minister, Mrs. Campbell and members of the committee, first I want to express appreciation for the privilege of appearing before you here today. I haven't seen Mrs. Campbell for a few years. It is nice seeing you once again.

I would like to confirm the fact my good friend Mr. Ziemba has appeared before the liquor licence board on several occasions. I am somewhat disappointed he got the message in the manner he did, because that really wasn't the manner in which it was given to him.

To make the record clear, and in answer to you, Mr. Breithaupt, you asked about the number of licences issued and the number revoked. Again to Mr. Ziemba, this is the record as we have it. This is the record as it is. In the past year there were some 1,241 applications received.

Mr. Breithaupt: On this document the figures in brackets are for the previous year, I believe?

Hon. Mr. Drea: The fiscal year.

Mr. Rice: Yes, the year ending March 1979.

Mr. Breithaupt: And the figures in brackets are the ones ending March 1978?

Mr. Rice: That is correct, yes. Of this number, 1,082 were considered by board members. You have this information before you but I think the question you might have in your minds is the matter of those that were not completed to their finality.

In 1978-79 there were some 64 licences voluntarily surrendered and there were some 25 licences not renewed. Contrary to what Mr. Ziemba speaks of—one per cent revoked—we revoked some 54 licences in that particular year, for a total of 143 licences terminated for various reasons.

Mr. Breithaupt: Out of how many?

Mr. Rice: Out of the 1,200.

Mr. Ziemba: Not revoked, denied.

Mr. Rice: Yes.

Mr. M. N. Davison: Was Mr. Ziemba accurate?

Mr. Rice: No, not when he cited one per cent.

Mr. M. N. Davison: What is the percentage?

Mr. Rice: You are speaking of new applications, are you, Mr. Ziemba?

Mr. Ziemba: Yes.

Mr. M. N. Davison: And you said one per cent.

Mr. Ziemba: How many of the new applications did you turn down?

Mr. M. N. Davison: I think he said 13 out of 1,001?

Mr. Rice: We are speaking about 20 applications reviewed.

Mr. M. N. Davison: Out of 1,241.

Mr. Ziemba: Out of 1,241 applications.

Mr. Rice: Applications heard. There were 1,241 applications received. Out of that, there were 1,082 heard at 83 public meetings. There were 1,053 approved. There were 994 issued. Out of the 944 issued, there were 20 refused.

Hon. Mr. Drea: What Mr. Rice is trying to say is, of the applications that come in, many never get to the hearing stage because they are told to go away.

Mr. M. N. Davison: But Mr. Ziemba said, and it is the only claim he made, last year out of 1,000 applications, you denied 13 licences, and he rounded that off to one per cent. Is that correct?

Mr. Rice: I don't know where he got that figure.

Mr. M. N. Davison: Was it not 13?

Interjections.

Mr. M. N. Davison: I think he gave the figure for the next year.

Mr. Cooper: I think the difficulty in quoting the one per cent is that a lot of licences are denied before they get to the board because they don't meet the regulations.

Mr. Ziemba: I asked how many Mr. Rice refused. As chairman of the board, what percentage did he refuse when people appeared before him?

Mr. Rice: There were 20 applications refused, as we point out here.

Mr. M. N. Davison: For the year ending March 31, 1979.

Mr. Rice: That's right.

Mr. M. N. Davison: In the year ending March 31, 1978, there were 13?

Mr. Rice: No, 21.

I think the board at the present time, and I must generalize on this because I think it is of interest to you to point out the procedures the board is following, is endeavouring to exercise a spirit of restraint in the issuance of licences because of the input and criticism

from some of the municipalities about the manner by which licences are being issued in this province.

In approximately the past year to 18 months we have endeavoured to gain input from municipalities and citizens to a much greater extent than previously by advising the clerk of any municipality from which an application is received that an application has been received.

That council has an opportunity to provide input back to the board as to the wishes of the council by resolution. In addition to that, as the minister has mentioned, the signs—and their actual size is approximately two feet by 30 inches, Mr. Ziemba; they are not that little small one you mentioned—are going to be placed. We are of the opinion this is going to provide greater input from the citizens.

We have been criticized for the small ads we provide in the newspapers. Our answer to the municipalities is the liquor licence board's advertising is larger type than municipal advertising. I think we are doing a better job even than the municipalities in getting the message over to the citizenry.

Just within this past week we turned down a licence application because of its close proximity to an educational institution. We are paying more attention to the proximity of religious institutions in so far as applications are concerned.

On the other hand, and I made this clear to Mr. Ziemba when he was before us, section six of the act states an applicant is entitled to a licence. In past acts and regulations I think many of you people, especially some who have been here a few years, well realize a liquore licence was considered a privilege. In the act passed in 1975 section six stated it was a right, with certain exceptions.

Provided an applicant meets all the requirements of financing, building, structuring, plus the fact they must meet all municipal requirements, they receive a licence. I hesitate to bring sex into these comments, but we are talking about entertainment, and if municipalities wish to enact bylaws controlling the type of entertainment in their establishments and the type of dress in their establishments, they are free to do so.
[4:45]

You will find certain municipalities in the province which have now enacted bylaws dealing with particular standards in their establishments. As I pointed out, Mr. Ziemba, the board has no jurisdiction in the field of entertainment. At this point we have no jurisdiction in the matter of dress in licensed establishments on the part of staff. But we are endeavouring to draw more input from the general citizenry so we can assess section 6(g) of the act which states "keeping in mind the wishes and needs of the municipality." How do we assess that? It's merely by the input that we receive from the citizens and members of municipal councils.

Mrs. Campbell: Could I ask you a question? You mentioned the fact that these notices of application are sent to municipal councils.

Hon. Mr. Drea: The clerk of the council, yes.

Mrs. Campbell: Yes. As a result of those notices—let me take, for example, the city of Toronto—have you ever had a resolution of the council opposing an application?

Mr. Rice: I'm pleased that you brought that question up, Mrs. Campbell.

Mrs. Campbell: I wanted to ask that because it's a puzzle.

Mr. Rice: I can cite an example where the council of Toronto, by resolution, requested this board to issue no further licences within a particular area in downtown Toronto. We only accept that as an opinion of the council of Toronto. We also require further input from the citizens in order to assist us in arriving at a decision.

Mrs. Campbell: That is not really answering my question because, I take it, that was a resolution that did not relate to an application—or did it?

Mr. Rice: It related to all applications within a particular area.

Mrs. Campbell: Yes, but I was speaking about a case where they acted on a particular application by resolution.

Mr. Rice: Certain municipalities within Metro Toronto have, by resolution—

Mrs. Campbell: No, I'm speaking about Toronto.

Hon. Mr. Drea: The Beaches. I can recall where they specifically—

Mrs. Campbell: The Beaches used to be a dry area, as I understand it.

Hon. Mr. Drea: No, it wasn't.

Mrs. Campbell: The people came to the council asking for some—you'll forgive the expression, Mr. Ziemba—relief from the lack of facilities there. There were those representing the Beaches at that time who took the position that they wanted to retain it as a dry area.

Hon. Mr. Drea: About a year and a half ago, because of the changing business structure in the Beaches, a number of applications came in, particularly from Queen

Street. Some of those were granted. At that time there was widespread community concern in the Beaches. Through Ms. Bryden, as I said before, we convened a meeting with the board. We explained everything to the people.

It was extremely peculiar that one of the things we drew to their attention at that time was the board had been sending up these notices of application to the clerk of the city of Toronto. The clerk had informed us that they had been passed to the aldermen. The aldermen had been saying they had no such notification.

In any event, the clerk assured us that they were being put to the appropriate aldermen. At that time, I can recall, I think they did pass a motion saying, "No further in the Beaches." On the basis of that, while it didn't relate to a specific application, if my memory serves me correctly, certain applications were rejected.

Mrs. Campbell: That doesn't really answer my question.

Hon. Mr. Drea: In Scarborough for instance; I don't think the city of Toronto has ever sent a motion forward on a specific basis. It's always been a group.

Mrs. Campbell: That's what I wanted to know.

Hon. Mr. Drea: Scarborough, York and Etobicoke have. I know in Scarborough the council has sent forward a specific application. That application—not necessarily because of the fact the council sent it forward, but on the criteria the council sent forward—was not granted. It was the one rejected because of the school. It's very interesting: we were roundly denounced for not licensing that place because it was close to a school. We were denounced in editorial columns all over the place asking what right we had to deny a person his right to a livelihood.

In other municipalities it has been brought to our attention they want more seating capacity—a bigger structure—before you license, because they're concerned about the fast food or the so-called "hamburger joint" getting a licence. Some of those considerations about seating capacity—I don't want to go into it for rather obvious reasons—are now under consideration by me. I don't want people running in figuring something is going to happen and attempting to get grants.

Mr. Breithaupt: Could I get back to that question about the wine-bar ratios and the pub theme?

You will recall, Mr. Rice, with respect to those two areas, I asked whether you intended to have separate categories to allow variations of your food and beverage rule. I also asked whether there have been applications, as well, from those who are running a wine bar, recognizing the minister's comment that the use of wine or lighter beverages, hopefully, is occurring with lesser costs to society in some ways.

What about the wine-bar situation? We read about the pressures some operators say have been making their operation difficult. How are you facing this new marketing idea —this new social phenonmenon—particularly in an area like the city of Toronto?

Mr. Rice: Out of some 4,000 to 5,000 restaurants in the province I think we may have a half a dozen that through their promotion and their advertising, have indicated they are wine bars. We are talking about various classes of licence: entertainment lounge, dining lounge, dining-room lounge, public house, club licence, patio and hospitality. There is nothing there that relates to licensing only a wine bar.

Mr. Breithaupt: Correct.

Mr. Rice: They come in as restaurants and under the restaurant application they are required to maintain the food-liquor ratio.

Going back to the days of the public house when they sold beer only, that was found to be an undesirable type of licensing as a result of public demand. In so far as demand for a wine bar serving wine only goes, there has been no demand for it with the three, four or five exceptions where they've found it difficult to make the food-liquor ratio. On the other hand, the vast majority of licensed restaurants in this province are conforming to the food-liquor ratio with no problems.

Granted, a certain percentage are finding it difficult to meet. But I think it's a case of what do we license? Do we license typically bars, or do we license food and drink? As I read it from the many years I've been in the business the public is desirous of beverages with food accompanying it. I think it's beneficial that food goes with beverages where possible.

Mr. Breithaupt: I would agree it's beneficial, but following the minister's own comment this particular entertainment is one which attracts people with the use of lighter beverages. It has a relationship to some of the social changes perhaps particularly within the centre of the city, although not necessarily so. It would seem to me some encouragement of that trend would be worthy of consideration. It might be worth thinking about a wine-bar category, with an expectation that the ratio might be somewhat differ-

ent. That might be a good thing, if such is the case.

You may find you don't have to change the category as such if consideration is available to those half dozen—and perhaps others that might develop. You could say the ratio is for a variety of social reasons, if that is acceptable, and is not going to be strictly held to.

I recall the articles in the—

Mr. Chairman: Did the Star tell you to say all of this, Mr. Breithaupt?

Mr. Breithaupt: No, but I recall articles about the difficulty of some persons being able to maintain this ratio.

The other theme was about the use of the pub idea. These are two matters which I think are of interest as we see the social entertainment patterns changing in Ontario.

Mr. Rice: Mr. Breithaupt, if I might just comment on your expressions about the number of people who are having problems in the food-liquor ratio. In what you may view as a wine-bar concept I think we had probably two to three that have had problems—out of all the licensed restaurants in the province. I am sure if and when the public demand is at such a level for this type of facility, the elected representatives would be cognizant of that desire on the part of the people and do something about it.

Mr. Breithaupt: Presumably you may become somewhat cognizant earlier than some of the elected members.

Mr. Rice: At the present time there is really not a demand.

Hon. Mr. Drea: Let us put it this way: the minister is cognizant.

Here is your difficulty, Mr. Breithaupt: a wine bar is not the only place where you can obtain wine over the counter. In a great many of the hotels, for instance Sutton Place, until a couple of years ago if you wanted wine you went to the dining room and you purchased it by the bottle or by the half bottle or perhaps a carafe—but not in the lounge area.

I would suggest if somebody asked for wine three, four, or five years ago in there, eyebrows would have been raised. Drinking wine at a bar, not in conjunction with food; asking for wine instead of for spirits or for beer, just wasn't the practice. Today it is quite common. Hotels also didn't want to break the bottle. They didn't want to open up a corked bottle and have to put the cork back in for one drink. A repeat customer might not come along for months.

Mr. Breithaupt: It's like selling an elephant steak, in other words.

Hon. Mr. Drea: That's right.

Mr. Breithaupt: You want to make sure you don't have to kill the elephant just for one steak.

Hon. Mr. Drea: Today that pattern has changed, particularly with white wine.

Mr. Breithaupt: And I think that's great.

Hon. Mr. Drea: Where you can get this type of service isn't restricted to a wine bar. You have the natural competition that as the pattern of social drinking changes, they obviously stock more wines for dispensing by the glass than they did before.

On the other hand, the wine bars traditionally associate themselves with varietal products from Europe. Their attraction is they have a great number of wines. The difficulty there is that the price of foreign wine has been going up.

Mr. Breithaupt: For a variety of reasons.

[5:00]

Hon. Mr. Drea: For a number of reasons, but the price is up. Therefore, to balance off on that 50-50, you have to raise the price of food, right? This produces an economic hardship because people who want a glass of wine and a very light lunch don't want to pay that price for a very small amount of food. This is an economic hardship because the law doesn't require you to eat.

This is constantly brought to my attention. They say, "If you people are so interested in the 50-50 ratio, why don't you by law require people to eat? You don't. You say you must have it there." The hotel people say, "How do you expect us to sell 50 per cent of our sales in food if you don't make people eat?" I don't know how to answer that, because they have some concern.

Mrs. Campbell today said she used to have to eat, in the days of the rubber sandwich when there was a 12 o'clock closing. You got to stay open until one o'clock if you put the sandwich on the table.

Mr. Breithaupt: And dusted it off.

Hon. Mr. Drea: The sandwich literally lasted for years, one sandwich to a table. There is no question they have some difficulties.

There is also a question, Mr. Breithaupt, in the 50-50 ratio of the suburban or the non-core eating establishment because living patterns are different away from the core. You can license an establishment in the core of an urban area and because of lunch-hour demands and some other things you'll probably do 70 per cent food. Out into the suburbs, away from the dense concentration of people, you don't have that much of a

lunch crowd and in the suburbs you don't get that much of a dinner crowd. They constantly complain the people go home to eat and then go to the premises for a drink or two, or to see the entertainment. It is very difficult for them to move enough food to comply with that regulation.

Mr. Ziemba: What do they do there?

Mr. Breithaupt: How do they make the ratio?

Hon. Mr. Drea: Oh, they make the ratio. They are complaining about the fact they have to go to rather extraordinary means. They close earlier so they don't have as many hours. They don't sell as much liquor as probably there is the potential to sell.

Mr. Breithaupt: It may be the ratio by itself is worthy of a review.

Hon. Mr. Drea: Mr. Breithaupt, I am glad you mentioned it. I was coming to it.

Mr. M. N. Davison: It's a good thing you asked before it was answered.

Hon. Mr. Drea: It's a normal question, it was proceeding, I was outlining some of the problems. Bear in mind too, before I answer that, in 1975 there was a great demand from the industry for the entertainment lounge which would only be a 30 per cent food ratio and 70 per cent alcohol.

Mr. Breithaupt: Recognizing that difference right there, of course.

Hon. Mr. Drea: No, but on the grounds of the high cost of entertainment. People don't necessarily eat that much while watching a first-class singer. There was a great demand for it. We said, "Okay, you have to put in" —I forget; 300 seats or something. "It can't just be a quick conversion to get out of serving food."

How many takers have we ever had? Any?

Mr. Cooper: Very few.

Hon. Mr. Drea: Very few. I think they looked at the economics of it. Seriously, the moment they looked at the fact of having to fill 300 seats then—

Mr. Breithaupt: It suddenly wasn't a blessing.

Hon. Mr. Drea: —it wasn't quite the blessing they had advocated. Even the industry has turned its back on that.

Today we have an advisory committee working very actively. That advisory committee was picked by the industry and it is not the same type of advisory committee as in the past.

You may recall my predecessors had an advisory committee which was established by order in council. They would look into special occasion permits and a great number of other areas. They included a cross section of the community, not the industry. That cross section of the community, in fairness, seldom could agree on any policy. That really didn't produce the expected results so, naturally, that committee decided to disband.

This committee is not appointed by order in council. The industry and the various segments of it chose their own people. The hotel and motel people which are primarily in the lounge and entertainment business chose their own person.

The Restaurant and Food Service Association, which is the restaurants, and quite often in the past has been poles apart from the position of the hotel and motel group, chose their representative. The resorts have a representative. The club managers have one. Who else is there?

All right, now they are addressing themselves to all of these things. I have met with them and I have said, "Look, if the industry feels so strongly" on a number of topics.

One, for the first time there is now a concern about the number of licences. Traditionally the hotel and motel association did not want more licences. The food service or the restaurant people insisted that the law made it an entitlement. They were poles apart on that very fundamental issue. They now have come together on that.

The resorts are in a little different category to clubs and so forth. They are looking into a great many areas. One of the things that has to be looked at is the 50-50 requirement because the 50-50 was set up for a reason. It was an arbitrary measurement to make sure you served food, to get away from the traditional thing where if you had a rubber sandwich there, you qualified. I think the 50-50 over the years has produced the type and quality of restaurant you have, by and large, across the province today.

Mr. Breithaupt: Indeed, it can have benefits in certain areas, of course.

Hon. Mr. Drea: But you have to take a look at it today. It really wasn't set up as a sacred thing. It was a thing to get the liquor policy changed in 1968 to one that stated liquor should be served in conjunction with food as it was in the past.

All right, they are looking at that. They are looking quite frankly in other areas—at the price of alcohol as it goes in from the LCBO to the licensed establishments. Can the industry agree on some type of formula for bulk discounting? There is the question; is the price of alcohol rising? It has been. You have to automatically raise the price of your food just to keep within that 50-50.

Is this driving up the price of food in the restaurants? I think that's a valid consideration.

Were the province to go into it as do many of the American states, would bulk discounting virtually bankrupt the little guy? The huge one across the street, because he's got a much bigger facility, would he benefit enormously. These are questions they have to solve realistically.

In addition, what should be the minimums for seating? Right now it's 20 seats. Is 20 now a valid measurement?

Are you not opening the doors to virtually every fast-food organization because of the labour—taking account of the Employment Standards Act—because you get a discount on your pay to your help if alcohol is served? I am telling you we are convinced that a number of these applications we are getting today, particularly with chains that never had alcohol, are as a result of that—

Mr. Breithaupt: Taking advantage of that particular aspect.

Hon. Mr. Drea: Yes; because even after we have them in there, we look at them; and what are they doing? Ten per cent alcohol and 90 per cent food; six per cent alcohol and 94 per cent food. They are not interested; there is no pushing them.

Mr. Breithaupt: Not really.

Hon. Mr. Drea: Not really, but it is a sizable advantage to them on their pay scale. I understand the position of the Minister of Labour (Mr. Elgie) and the Minister of Industry and Tourism (Mr. Grossman) that tips are higher with alcoholic beverages and for a number of reasons that was done. But we get one of the spinoffs that I don't think was ever anticipated in this area. Of course some other people will say, "Well, if they are only serving the occasional glass of wine or beer, it's really not serious," but Mr. Ziemba, and I think his concerns are valid, comes and says we are issuing licences faster than building permits.

Mr. Chairman: Supplementary, Mr. Davison?

Mr. M. N. Davison: I actually had a question.

Hon. Mr. Drea: I just tell you that advisory committee is looking into all the aspects; and I will also tell you the one thing we are concerned about is that the family man is being driven away from a night out with his family in a restaurant where they could have a family meal, or he could go with his wife, because of the price.

In virtually every area of the province that price is there. Some people blame it on the minimum wage in Ontario vis-à-vis the minimum wages elsewhere. I don't grab that one, I think we have to look at that. What is happening with the present prices, and you have to regard social policy in this as well, is that if your price of wine keeps going up it is more attractive to drink a higher content liquor because in terms of comparison it is cheaper. Once again I don't necessarily believe pricing has an awful lot to do with consumption, but one of the things you don't do is price a high alcohol product lower than you do a low alcohol product.

Mr. Breithaupt: You have to keep pricing in proportion.

Hon. Mr. Drea: Yes, the price for a low one should be lower. In other words you don't price sherry, which is 18 per cent alcohol, lower than seven per cent alcohol content wine. You stay away from that. This advisory committee is looking into all of that.

Mr. Breithaupt: When might you expect input?

Hon. Mr. Drea: I am very hopeful this fall. I am very anxious, because the industry, quite frankly, is very concerned about the economics.

Mr. Breithaupt: Will the report they make to you be available to members of the House?

Hon. Mr. Drea: Yes; it doesn't have to be, but I will make it available.

Mr. Breithaupt: I think it will be helpful as we see how the industry relates to the changing circumstances we are all mindful of.

Hon. Mr. Drea: There's a question now that I am on the threshhold of making a decision on. It does require cabinet approval, and I have made this pretty public. It is the resort question; not the hotel but the resort, where you are there for a period of time, including meals and so on. The key point is the definition of what exactly it is, of ending many of the artificial restrictions that have been there; such as you couldn't get room service in a cottage because it wasn't physically connected to the main building, et cetera.

It was a package that was developed by Resorts Ontario and so forth; just to respond to my invitation that if we had artificial restrictions that were stopping you from expanding, or whatever, please come in and see. Maybe they are not written on stone. If they are written on stone we will tell you and that's it.

Mr. Breithaupt: This will bring a separate category, in your expectation?

Hon. Mr. Drea: Yes.

Mr. Kerr: It will bring back the BYOB policy?

Hon. Mr. Drea: No, it would end the BYOB.

Mr. Chairman: I thought that BYOB was bring your own bed. At least that's what it is at the Etobicoke General Hospital.

I think Mr. Davison has a question. Supplementary first from Mrs. Campbell; and then Mr. Davison.

Mrs. Campbell: I understand from the minister's remark that you are very definitely distinguishing between a resort, and a resort or tourist area.

Hon. Mr. Drea: Yes. What has hung us up for a long time is how could you define a resort as physically different from a hotel or a cocktail bar or whatever? All right, I put it to Resorts Ontario that they knew the industry, go back and give me a definition. They did. It was about 65 per cent of what legally would be required. With that as a foundation the board's solicitors worked on a definition that I think the board has found acceptable.

Mr. Rice: We are working on it.

Hon. Mr. Drea: We are still working on the final end of it. I would like to do it very quickly because of the fact they would like to get their brochures out. You can't be a regular hotel or a cocktail bar and a resort at the same time. You take your category as to what you are. That is already occurring, and I would say to Mr. Breithaupt, because he has asked for the report of this committee, that even before the actual commencement of the committee—and bear in mind it's not by order in council or anything else, it's an ad hoc committee—the industry had submitted to me in various meetings a number of reforms, or changes and what-have you, dealing with licensing and a number of other things. Many of them have total acceptance throughout the industry, in all its phases. I have assembled a package of those, and even without waiting for the commencement of the committee, since it in reality suggested them, I have a package of those that will be going to cabinet relatively soon. I will share the results. I don't want to say what they are, although I'm not trying to hide it from the committee, I'm prepared to discuss it privately but if we're going to have some changes, I don't want a flurry of people coming in right now and then taking the legal position that they should be grandfathered because their application technically was before the board, that would defeat the purpose of it.

[5:15]

Mr. Ziemba: Are there consumers on the committee?

Hon. Mr. Drea: No, it's different from the last one. This is just an industry one and we're not bound by it. They are just making suggestions to the minister. The changes they are suggesting are purely those affecting the industry. I will have to balance their requests with those of various groups, such as the one you belong to, and the alcohol and drug concerns, to whom I'm talking tomorrow. They have to be balanced.

Mr. Breithaupt: And the unions.

Hon. Mr. Drea: Yes. The union has made some excellent suggestions to me on their own. The union has been in a couple of times. It hasn't been in with the new president, but certainly the former business agent or president, Mr. Troll, had a great number of very positive suggestions. Those, incidentally, will be reflected in some of the proposals that I am taking to cabinet. I don't want to give the impression that when the industry snaps its fingers we're going to do what they say. They are developing, logically, some positions.

The bulk discounting, of course, has to be balanced. They have to look at revenue and at whether or not a different type of approach in the sales to commercial establishments would be reflected on the bottom line, which is the menu; or would it be something like "We really haven't raised the price for some years so therefore we absorbed a lot of things."

Mr. M. N. Davison: I had made a note of a question I wanted to ask but I seem to have misplaced it, however there was another concern I had. It deals with the LCBO. I don't know if you have anybody from that board with you today or not, but I think it's probably something more for you to think about.

It deals with the problems you seem to have in developing some public understanding of the pricing policy. I offer this not in a partisan fashion but in a purely helpful fashion. I try not even to smile when I'm doing it.

It occurs to me that it would be a very good idea for the public to have fuller and more readily available information on the component prices; the taxes, and so on, right down the line. I would suggest that you consider, very carefully, changing the price

sticker on the bottles that are sold in the self-serve liquor stores, and changing the boards that are displayed in the other liquor stores, so that you have on the price sticker all of the component costs in that particular bottle. The same thing would be shown on the shelf.

I think you should give thought to that, because I'm quite willing to see an argument about liquor pricing policy, but the public is not as well informed as they should be on this particular issue. If you would consider doing that I don't think it would cost a lot more. It would simply take a sticker twice the size, and it may take a bit of redesign on the inside of the boards in the liquor stores, but I think any cost would be well worth it.

One of the figures I'd like to see in that is the percentage of the consumer cost that's going to profit—the percentage—and in what way it's going to government, that kind of thing. There are probably four or five costs that you'd want to separate out and put on the stickers. I don't expect an immediate response from you on that, unless you want to say something off the top of your head. Maybe that's something you can take away from the estimates and puzzle out.

Hon. Mr. Drea: There's no question this is a difficulty. We have been looking at various ways to produce that type of information in the store. The Toronto Star has done it a couple of times, comparing a particular brand, one whisky, et cetera. Every time that's done I get very congratulatory letters about holding down the price compared to other provinces.

Mr. M. N. Davison: Let's be non-partisan, please.

Hon. Mr. Drea: I'm putting it in perspective, because the price of alcohol hasn't risen in proportion to other costs in our society. Realistically, it may have come in a big jump, but compared to meat and some other things it hasn't. In doing this we are trying to find an acceptable formula to do it.

It is a little bit difficult, because the problem is that you have broad categories—by that I mean scotch, rye, et cetera—and the tendency in the past has been to take one bottle, like Johnny Walker scotch, and show what happened to it. I don't think that satisfies the gentleman who's buying Cutty Sark.

Mr. M. N. Davison: I don't think I explained this carefully enough.

Hon. Mr. Drea: You say right on the label, federal tax, et cetera?

Mr. M. N. Davison: That's right; so if I go to buy a bottle of fine Irish whiskey and I have Old Bushmills and Jamieson's—

Hon. Mr. Drea: Would you do me a favour? I'll tell you later. If you want fine Irish whiskey you'd better participate, because it's only because of the minister it's staying in the stores.

Mr. M. N. Davison: Okay, I'm buying it as quickly as I can possibly consume it.

Hon. Mr. Drea: Sales are not good. That's the only directive I've ever made to the board: "You can't take that out."

Mr. M. N. Davison: I'm doing my part to help out. I'll talk to Mr. Ziemba about it.

Hon. Mr. Drea: Mr. Ziemba and I can't help you on that.

Mr. M. N. Davison: If you have two brands of that it appears on both brands. Also, if you have vodka with 27 brands or something you'll have to do it on 27 brands, you'll have to do it brand by brand.

Hon. Mr. Drea: No; I will tell you that even within those broad categories, because they are priced competitively the base price is somewhat different; scotch is only a little bit different because there are only about three or four price ranges in it. When you get into spirits there are a number of base price ranges; and wine is a little bit different.

I'll certainly take that under very positive advisement. We are looking at doing something, because I understand how frustrated the customer feels. The customer goes in and he looks and there's no explanation.

The other problem in trying to keep the fairest price for the customer is that as long as we have inventory we try to make sure the inventory is sold at the old price. Then here's what happens; a month or two after you announce—

Mr. M. N. Davison: I'll save you. I don't want to get into this debate.

Hon. Mr. Drea: I'm just telling you that you might be more helpful to me. I'm not debating, I accept it; I just want to tell you some of the problems out there. It's a real problem for us trying to inform the public.

We raised the price of scotch in April. We said we were going to raise it, but we wouldn't raise it until we got rid of our old inventory. In the first shot three scotches went up because they were out in the system. That means there was still some, but all the stores had reordered. That left, I think, 37 others at the old price. I think it's fair that you sell at the old price as long as you have it rather than making a windfall profit on what you bought at the lower price.

But then four or five months down the road we're running out of those other scotches. The public comes in and says; "You told us you wouldn't raise the price of scotch again in 1979 because you had an arrangement with the scotch whisky association;" which we do. Then we have to say, "We haven't raised it. It was all raised in April. You've been getting a lower price because the product was still in our system." This is where people get horribly confused, with wines and everything else.

It's a very difficult problem. I appreciate your suggestion about the price sticker. I don't know if that's the right way to do it, but I certainly appreciate it and any other ideas that people have.

Mr. Breithaupt: Are you giving consideration on that theme to suggesting a variety of the markups on the higher-priced products compared with the lower-priced products, in the way that Quebec, for example, takes a lower markup on a higher-priced wine?

Hon. Mr. Drea: I don't think Quebec does any more.

Mr. Breithaupt: Is that theme now—

Hon. Mr. Drea: The problem with that is—now Newfoundland does, and I think that option was open in the past to us; but since the signing of the Geneva Agreement on Tariffs and Trade that option is no longer open. We are committed to a policy of no hidden benefits or hidden charges.

Your difficulty is that if you start selective taxation by virtue of the base price, you have to show in each and every one of the commodities, each brand, that there has been a narrowing of the gap between the Ontario or the Canadian markup and the foreign one. It is almost impossible to do, Mr. Breithaupt.

Mr. M. N. Davison: Mr. Chairman, can I have a supplementary on the supplementary to my question?

Mr. Chairman: Carry on with your questioning, Mr. Davison.

Mr. M. N. Davison: I think it is important you do it because there is a real public debate—

Hon. Mr. Drea: Oh, yes.

Mr. M. N. Davison: —and I think it is incumbent upon us, as a committee dealing with the ministry's estimates, to suggest something that will get accurate information on why and how the price of booze is what it is into the hands of the consumers. I didn't mean by that to imply I was on either side of the issue; we really just don't have time left today to get into that debate.

Mr. Kerr: When that information is given—

Mr. M. N. Davison: But it's not.

Mr. Kerr: I am just saying when it is given I think you will find that the misconceptions we have now, particularly about the amount that the distillers are making on a bottle, will be changed, will be corrected. In other words, they will turn the venom on the pubic sphere rather than on the private company.

Hon. Mr. Drea: One of the difficulties, Mr. Davison, is the problem of—and I throw this out to you again—the word "profit" and the word "markup."

Mr. M. N. Davison: Are you referring to the government or to the—

Hon. Mr. Drea: No, in the public mind. We say "markup," meaning the wine is marked up 123 per cent; but then the public looks at the word "profit" and thinks we make 123 per cent on every bottle. We do not; we make about 36 per cent on foreign wine, about 37 per cent if you really did it, because there is warehousing. Then they say "Why don't you do it like the United States; just tax it?" We say: "Look, that is all we literally are doing." There is no question it is a great area of confusion.

I wish there was a very simple way because I would have done it some time ago. Every month I see screaming headlines, "Liquor Prices Up." You look at them. What are they up? It's the demurrage, it's the freight, the Canadian dollar has dipped a little bit, we are out of inventory; but the public says, "You have broken your word again."

Mr. M. N. Davison: If you have that information at the place where the public is buying it, we may end up solving a good chunk of that kind of frustration.

Hon. Mr. Drea: I hope so, I hope so very much, because I think the prices, whenever they are compared, even on a limited basis such as the Toronto Star has done twice, our prices are found very comparable in Canada.

Mr. Ziemba: Better that liquor prices go up than milk.

Hon. Mr. Drea: We could probably debate that. I am not debating prices here versus another product, but—and I said this before —in terms of the LLBO and the LCBO, there also has to be social policy. There is a very concerted argument that if you price alcohol too low it does lead to consumption.

There is also a counter argument that if you raise it too high it leads to illicit sup-

plies and so forth. So social policy is also a consideration in pricing.

Mr. Kerr: Back to the discussion regarding the 50-50 ratio and the change in the act, the change of policy, certainly since Judge Robb, God bless him, is no longer at the licence board, but mainly because of the change in the legislation: in many cases in the old days applicants were required to be in business for a particular length of time, whether it was three months or six months or what-have-you, depending on the type of application and the location of the applicant. The theory in those days was that you were really helping the applicant, if it was a restaurant for example, which served food, because the applicant may have had a misconception that because he had a licence he was going to make a healthy profit. The actual restaurant, the serving of food, the type of food, and the general service could really suffer because he concentrated more on booze.

[5:30]

I assume, first of all, that there isn't the waiting period there was in the old days, that an applicant almost at the inception or the ribbon-cutting ceremony of the establishment can have a licence, so there hasn't been any period where they have built up a clientele because of their food and because of their service. In my opinion, there have been a number in recent years, particularly in shopping plazas and little restaurants in sort of suburbia, that have gone belly up because they thought they could make a good living with the licence.

I am wondering if it wouldn't be better, without getting away from the principle that it is not a privilege now, that there be, in some cases, a waiting period, at least a time when that restaurant is busy for the purpose of serving food. Then within a reasonable time thereafter a licence would be issued based on the present criteria, but with the knowledge that they can maintain that ratio and comply with the act.

Mr. Rice: I am not critical of that previous policy, that waiting period of, say six months in the time of the late Judge Robb. However, I think in later times it was the belief of those people who changed the act and the regulations that people would be going out and investing many thousands of dollars to prepare an establishment for opening. I think that is the thinking of those people who changed the act and the regulations; it was changed so that an applicant may be entitled to a licence without the waiting period, providing he meets certain requirements and responsibilities.

In many cases, in fact in the great majority of applications coming before us today, they either have had sufficient extensive experience in the food business or they satisfy the board that they are prepared to hire sufficient expertise in the food operation to make it a viable operation.

However, notwithstanding what happens in the great majority of cases, we do have people coming before us with little or no experience in the food business. As you suggested, keeping within the terms that a person is entitled to a licence we have adopted a policy whereby if that condition exists and we are questioning the ability of the individual, we say, "We will reserve a decision until your food operation is in active operation and we are satisfied you are operating a restaurant which is eligible for a liquor licence."

That doesn't happen in a great many cases, because in the majority of cases people satisfy us that they have sufficient expertise and experience. But as I say, we are following that approach on occasions where we are not satisfied that there is sufficient experience. At the same time, we are not refusing the application.

If three months go by and it still is not in operation, and we are satisfied that it is not going to be a good operation, then we go the proposal route and propose to refuse to issue the licence. Following that they have 15 days to appeal back to us, and in the succeeding approximately 30 to 45 days they still have the opportunity to come back and satisfy the board. For example, they might go out and hire an experienced manager to manage it for them so that they can satisfy us that there is sufficient experience. I think one of the reasons we have such a high quality of food in this province is just that fact, that a great many of our applicants are experienced or we require satisfaction that there is experience involved in the application.

Mr. Kerr: My remarks wouldn't apply to a chain setup or somebody who has had a licence before or knows something about it and has some experience. I'm thinking of a lot of independent people who are forming companies or starting a proprietorship with the idea of getting a licence; the food angle is secondary and they're getting into areas where there just isn't the potential. They feel because of the booze they're going to make a good living and they cause a great deal of aggravation by starting up, operating for a period of time and then going broke. I'm thinking of the general quality of the meals, the quality of the service and everything else—trying to hang on there when food

almost becomes, shall we say, tertiary; it's about 10 per cent of their business.

I realize that ultimately comes to an end through your inspectors and things like that. I'm glad to hear that at least in those areas you mentioned, where they're not that experienced, there's some guidance. In the old days it wasn't beyond a good chairman to jump in his car and drive to a certain area where the applicant happened to be proposing a restaurant, going in and having a meal, and if he didn't like it the applicant didn't get his booze licence.

Mr. Rice: That policy, Mr. Kerr, hasn't changed. The present chairman still goes out and visits establishments, wherever possible, where there's a question on the application; especially in the Metro Toronto area where some of the applications are very questionable. I don't go out for a meal, I go out for a coffee; I don't risk a meal until I'm more satisfied that they're in the restaurant business.

Mr. Breithaupt: Do other members of the board go through that scouting on occasion?

Mr. Rice: When they're out in the various 14 sections of the province in which applications are heard, yes, if they have time they will visit the odd establishment in the area.

Mr. Breithaupt: How many members of the board are there now and what is their remuneration?

Mr. Rice: There are five members plus the chairman. The chairman is the only full-time member. The others are very active members, I can assure you. Sometimes the representations on commissions are looked on as an honorary position, they don't do any work. I can assure you nothing is further from the truth with the members of the Liquor Licence Board of Ontario. They are rotated on a weekly basis, a day-to-day basis, so that they continue to play an active part in the decision-making.

Mr. Breithaupt: What do you pay them?

Mr. Rice: They were on a retainer of $80 a day and it has recently been increased to $100—$85 previously, $100 now.

Mr. Breithaupt: If I could just finish that, you cover their expenses, I presume, when they travel. Would a travel day be involved depending on where you send people, or how do you work that out?

Hon. Mr. Drea: That's what I wanted to say. They only get paid that per diem on the days that they hold hearings.

Mr. Breithaupt: What if they have to go up the day before or couldn't connect the day back or something?

Hon. Mr. Drea: He gets his expenses. This is why I went to management board and had their per diem raised from $85 to $100, because they were going out to community groups all across the province, et cetera. Those were not hearing days, they were not being paid for those. The only pay they get is on the days they actually hold hearings or formal board meetings where decisions are arrived at. It's like the Legislature here, no pay for travel days.

Mr. Breithaupt: I can understand community groups or whatever, but if you were to send someone—perhaps you carefully schedule this—a certain distance and he had to go the day before and had to be there the day after, or whatever, that would hardly be fair, would it?

Hon. Mr. Drea: That's the way it's drafted. They get paid for hearing days. Now of course you pick up their expenses; they're not out of pocket. But it's not a per diem; it's based upon assignment from portal to portal. It's only the hearing days. You're not having a hearing when you go before a board of education that wants to know.

Mr. Breithaupt: I understand that. But if one were going to a community for a hearing and you had to go a day or two before—perhaps that doesn't happen.

Hon. Mr. Drea: Yes, it does. The thing is quite specific. You are paid your per diem for the hearing or the meeting day. Their expenses are paid but they do not receive a per diem for the Tuesday they fly up to Thunder Bay in order to commence the hearing at nine o'clock the following morning, or if it goes very late in the evening and they can't get a flight out and they have to come back on Thursday, they are not paid for the Thursday. They're out of pocket.

Mr. Breithaupt: To take that particular example, if that were the case that's hardly fair to give a person one day's pay for three days' work.

Hon. Mr. Drea: Remember, they're on rotation and they're scheduled on these things, so they try to get it so they will—

Mr. Breithaupt: You would be mindful of that.

Hon. Mr. Drea: The board is very mindful of it.

Mr. Breithaupt: That seems reasonable.

Hon. Mr. Drea: They have been raised from $85 to $100, and that was the particular reason I went to management board, because there was a misconception there. Even in management board there was a misconception that it was like the Legislature, that

you were paid for the travel days. But they're not.

Mr. Breithaupt: Just a point.

Hon. Mr. Drea: Therefore they've got 15 per cent more.

Mr. Ziemba: I have a question that's been bothering me for about four years. Are the licensed outlets in this building under your jurisdiction?

Hon. Mr. Drea: The licensed outlets, by decision of—

Mr. Chairman: I think it's about time to adjourn to the House for a vote.

Hon. Mr. Drea: The doctrine that the crown cannot license the crown applies to two structures in the province of Ontario. One is the House of Commons, the other is the legislative building—not the complex, the building.

Mr. Ziemba: What do you think about the prices of the booze sold in this building, Mr. Minister? I think it's scandalous that people here are getting subsidized booze when people on the outside have to pay the full rate.

Hon. Mr. Drea: I haven't looked at the price list lately. But I would say if you have a complaint in that direction it should be to the Speaker, who is in charge. There are only two places where the LLBO has no jurisdiction, although I want to emphasize—no, I can't even—

Mr. Ziemba: Surely people who hang out here can afford to pay the regular tariff.

Hon. Mr. Drea: I don't know what the regular tariff is. All I'm telling you is that the Board of Internal Economy and the Speaker, who sits on it, establish the price list. I would suggest you go to them. It's not the LLBO. The LLBO doesn't license.

It's a very humorous thing. They were going to let the LLBO license when the Provincial Secretary had responsibility for liquor. One of the requirements was that this address and description of the building would have to be publicly advertised under the title, "Take notice, Queen's Park has a tavern."

Mr. Ziemba: You probably wouldn't live up to the tavern code.

Hon. Mr. Drea: The members of the Legislature took great umbrage to that type of public notice and they sat down and decided the crown should not be in a position to license the crown, that it be the Speaker of the House of Commons and the Speaker of the Legislature of Ontario. Only for these buildings. If you're in the Macdonald Block, it's under the LLBO. If you're in my building—

Mr. Chairman: We have two minutes.

The committee adjourned at 5:43 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of Consumer and Commercial Relations

NOV 2 0 1979

Third Session, 31st Parliament
Wednesday, October 31, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 10:06 p.m. in committee room 151.

Mr. Chairman: I am sure all members of the committee were as upset as I was at the announcement of the untimely accident and death of Mr. Dalton Bales, the former Ontario cabinet minister, who was killed last night when he tried to cross Bayview Avenue and was struck by a car.

I did not have the pleasure of knowing Mr. Bales personally—he served in the Legislature before I was elected—but I am sure this committee and all members of the House deeply regret the ultimely death of a man who served the province well and who was continuing to serve his community and his fellow man.

I am sure that the minister and someone from each of the parties would like to express some sentiments, and then perhaps it would be appropriate if we all stood in a moment of silence to remember Mr. Bales and some of the work he has done and contributed to our society.

Hon. Mr. Drea: Mr. Chairman, members of the committee, I will speak very briefly, because Mr. Bales was a gentleman who was always somewhat reticent to discuss in detail his contributions or his work load. He was a municipal councillor in the old township of North York when it was very much smaller than it is today; in fact, I believe the Baleses were some of the pioneers of the old North York township. He was a member of the Legislature and served as the Minister of Municipal Affairs; I am sure that Mr. Swart, because of some of his experience in the municipal field at that time, would be far more knowledgeable about the relationship of Mr. Bales and the old federation of mayors and municipalities. He also served as the Minister of Labour in a very turbulent time. Latterly he occupied one of the highest positions one can achieve in his profession—because he was a solicitor—Attorney General and chief law officer of the crown.

Mr. Bales was in every respect a gentleman of the old school. He served the Legislature with honour. He served his community in a great many areas in an unsung role, which probably will never be recognized, but I think that probably is the way Mr. Bales would have liked it.

On behalf of the Premier and the Executive Council of Ontario, as well as the members of my party—I think I can speak for everyone on this—I certainly express very profound sympathy to his family on a very untimely end, because Mr. Bales was extremely active in his community and his profession up until last night.

Mr. Breithaupt: Mr. Chairman, I had the pleasure of serving with Dalton Bales in the Legislature for a term. It was certainly a great shock to read in this morning's press of his untimely demise as a result of an accident.

Dalton Bales was a quiet sort of man who, I believe, was a fine example of those who do get involved in public service at some cost to themselves and their families. He certainly represented the traditions of service in his community as was mentioned by the minister.

Dalton Bales did come from one of the pioneer families in that part of Metropolitan Toronto. I believe he always was interested in public matters, in doing the best job he could in the variety of responsibilities that have been outlined by our colleague Frank Drea.

It is always sad, as one looks up and down the many names that are carved in the walls of this building, to recognize how many members come and go in the Legislature and how many have given of themselves to serve the province of Ontario, some over a long period of time, others over a briefer period, but all in the best interests of their party and their philosophy as they see it.

Dalton Bales will be missed in his community, and the condolences of the Liberal Party are certainly with his family at the present time.

Mr. Renwick: Mr. Chairman, perhaps I might make a brief comment to associate myself with the remarks made by you and by my colleague Mr. Breithaupt about Dalton Bales.

He was a colleague of mine as well for a long period of time.

There were two things I noted about him that I will always recall when I think about him. One was his unfailing courtesy at all

times. He was a very gentle man in many ways. I also recall talking to one of the major organizers of the Conservative Party who threw up his hands one day because he had called Dalton Bales to say that he had half a dozen workers for him for one of his campaigns, and Dalton said: "Goodness, I don't know what I would ever do with them; I've got the two people I rely on." I gather he didn't have to do anything to be re-elected time after time in his area other than just to be visibly present and have a couple of people to answer the phone if anybody called. He had that kind of secure tradition of his family's association with that area which made him a respected representative in the assembly.

I share the concern of the sudden death and the timely condolences of my colleagues in our caucus for his family.

Mr. Williams: Mr. Chairman, I have a special association with Dalton Bales and his wife, Iris, and the family. I have had the distinct privilege of assuming the responsibility for part of what used to be York Mills riding which Dalton represented so well in this Legislature during his tenure of office. As you will recall, redistribution came about in 1975. York Mills riding at that time was the most heavily populated riding of any in the province. Appropriately, it was divided in half, and Oriole riding was created out of the east side of the riding.

I knew Dalton when he was on the municipal council of the then township of North York. He left there to go into provincial affairs. At that time I became a member of the North York council and had close association with him, through my municipal political career, and with his family.

Dalton Bales was without doubt one of the most well liked politicians I know. He was a household word throughout the community, and I have endeavoured—unsuccessfully to this day—to emulate Mr. Bales in everything he did. He was indeed one of the most beloved public figures in the community. In public life, Dalton Bales was not only a politician, but also a true statesman.

It is certainly with heavy hearts that we speak today of his untimely passing. I know it is a tremendous shock to his wife, Iris, to the family and the whole community.

[10:15]

Mr. Swart: Mr. Chairman, I didn't know Mr. Bales in this House, but I did have an association with him of some length in municipal circles. Therefore, I feel a personal regret as well as a public regret at his passing at such a relatively young age—at least from my perspective a relatively young age.

I would just reiterate what the other members have said and say that I know of few people, if any, in municipal circles who commanded the respect that Mr. Bales did. I think that was for two reasons, and they have been mentioned. One was his gentlemanly conduct at all times, and the second was his wisdom and ability to put forward his views in municipal circles. He is certainly going to be missed by a great many friends and by the public generally in this city and in the province.

Mr. Breithaupt: Mr. Chairman, I wonder if Mrs. Bales could obtain a copy of the Hansard report of our meeting today. It could be given to her as a souvenir of our concern and our condolence.

Mr. Chairman: I was going to suggest that the clerk, on behalf of the committee, forward to Iris Bales, his wife, a copy of today's Hansard, along with our expression of sincere sympathy to her and to the two children, Karen and Joseph.

Perhaps it would be appropriate now if we simply rose for a moment for a moment of silent meditation in respect.

The committee observed a moment's silence.

Mr. Chairman: May he rest in peace. Amen.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(concluded)

Mr. Chairman: We have one hour and 17 minutes left in the estimates. When we last prorogued we were on vote 1507, the liquor licence program.

Mr. Swart: On a point of order, Mr. Chairman: Am I correct in the understanding that we are first going to spend some time this morning on the matter of the report tabled by the minister?

Mr. Chairman: I think that was what was originally agreed by the minister and members of the committee, Mr. Swart. Unless there are a tremendous number of people who want to deal with the liquor licence program—and, since we had set up a schedule, I don't think we can have a lot of speakers on that—I would like to take the vote on that item first.

Mr. J. Johnson: Mr. Chairman, I have two questions—

Mr. M. N. Davison: Speaking to the point of order: We did agree that the minister would respond to Mr. Swart Wednesday. I suggest that we go ahead as planned to do

that matter first. If we have time, I am sure there are matters we would all like to get back to in the estimates.

I have a number of matters that we haven't had time to deal with that I would like to get back to, but that commitment was made and I suggest we do that first.

Mr. Chairman: The commitment was to deal with the matters Mr. Swart raised. The minister wanted an opportunity to reply.

Mr. Swart: My understanding was, when I looked at Hansard, that Mr. Drea had tabled the report. It could be open for discussion at this time this morning; not that it was necessarily a question of Mr. Drea responding.

Hon. Mr. Drea: But the liquor vote wasn't carried.

Mr. M. N. Davison: On a point of order: I think we have an agreement to go back to other matters. We also had agreed that on Wednesday morning we would deal with this matter that Mr. Swart raised with the minister and the minister had responded to, and I suggest we do that now.

Mr. Chairman: We will stand down vote 1507 and deal with the matter of the minister's report as agreed to by the committee. I was just hoping if there were—

Mr. Swart: On a point of order: Can I understand from you, though, your commitment that we will be returning to this, even if the discussion should continue?

Hon. Mr. Drea: He said we are doing it now.

Mr. Chairman: I just said we would deal with it now, Mr. Swart.

Mr. Swart: I am sorry.

Mr. Williams: I understand we are on a certain vote in the estimates.

Mr. Chairman: Yes, Mr. Williams. Once again, if you attended regularly, you would understand that we had an agreement as to scheduling; we dealt with it procedurally when Mr. Breithaupt first introduced a series of proposals at the opening of these estimates.

Mr. Williams: That was a long time ago, Mr. Chairman.

Mr. Chairman: We made certain commitments at that time, and we are sticking to those commitments.

Mr. Williams: Mr. Chairman, because I wasn't here at the end of the last sittings of the committee, I am trying to gather some understanding of what that commitment was. Did it have to do with vote 1507?

Mr. Chairman: It had nothing to do with vote 1507. We scheduled a certain period of time for each of the votes. The time for vote 1507 has been used up. However, since we haven't carried it, I am prepared to deal with vote 1507 after the other commitment, which is to deal with the matter of the minister's report to Mr. Swart.

Mr. Williams: What is that matter? That is what I am asking, Mr. Chairman. You seem to get exasperated when I ask you a question. What is the subject matter of Mr. Swart's question?

Mr. M. N. Davison: I don't think there is any need to go through the subject matter of Mr. Swart's question, and have him repeat four hours of questioning so that Mr. Williams can satisfy himself that he is wasting enough time in the committee.

Mr. Williams: For heaven's sake, can't you simply tell me what it is about?

Mr. M. N. Davison: Every member of this committee who has been working here has agreed to a process by which we can try to get through the estimates—except for one member who, every time he came into this committee, has tried continuously to take the work of the committee off the rails, to waste the time of the committee and to try to jump all over the agreements that have been made.

Mr. Chairman: Order.

Mr. Williams: On a point of privilege—

Mr. M. N. Davison: I am getting really tired of this.

Mr. Chairman: Order.

Mr. Williams: If those remarks are directed to me—

Mr. M. N. Davison: Yes, they are directed directly at you.

Mr. Williams: —I must take objection to what has been stated.

Mr. Chairman: Fine, your objection has been noted, Mr. Williams.

Mr. Williams: No, I am speaking to a point of privilege.

Mr. Chairman: That is not a point of privilege; that's an opinion.

Mr. Williams: Mr. Chairman, it seems to me that every time I happen to be speaking—

Mr. Chairman: Order, please. Order.

Mr. Williams: —it offends Mr. Davison. Yet I can sit here for hours on end and listen to him speak on an item in the estimates to which every member of this committee has an opportunity and a right to speak, and he gets offended because I might have five or 10 minutes to speak on a particular subject.

Mr. Chairman: Order, Mr. Williams!

Mr. Williams: I am not going to take that kind of nonsense from this gentleman much longer.

Mr. Chairman: Mr. Williams, we have—

Mr. Williams: I have as much right to speak in this committee as you do, Mr. Davison; so just curb your remarks. No matter how you feel about me, curb your remarks. I have as much right to speak to these matters as you do. Don't give me that nonsense; just cool out.

Mr. Chairman: Mr. Swart?

Mr. Swart: Mr. Chairman, first of all I want to assure the minister that the report he tabled includes his letter to me. It includes a contrast of prices of certain items in the Buffalo area, including the after-tax profits of the manufacturing corporations. It includes the letter he received from the White Swan company of E.B. Eddy. I think that was what was tabled as the report.

Secondly, I think it should be made clear that this report was not given to me, Mr. Chairman; this was tabled for the committee, primarily at the request of my colleague from Riverdale (Mr. Renwick). That report is before the committee. It is not a question of it being given to me. I want to make some comments on various aspects of that report.

The first thing I want to say is that I think that report fully substantiates my charges that Canadians are paying unreasonably high prices for commodities we produce in this country using our own resources and our own labour.

Two and a half months ago, I charged that E.B. Eddy of Ottawa-Hull was selling Canadian-produced bathroom tissue in the United States at a price far below what it was charging in Canada. You, Mr. Minister, denied that in the letter you wrote to me and included here.

Your own report, the comparison of prices you have given in here, shows that Swans Down tissue in Canada retailed for 58 per cent more than Eddy's comparable product, Soft and Pure, in the United States. You have admitted the wholesale list price of Soft and Pure, supplied to me by you in a letter of September 11, is incorrect. Instead of it being $23.40 per case, it is only $21.50 in the United States. I checked again yesterday, and that is still the price for which that is sold in the United States. By comparison, the wholesale price of Swans Down sold in Canada is 28.56.

However, your own report also indicates that the price differential is even higher, since Soft and Pure contains five per cent more tissue than Swans Down. That is in your own report; a roll of Soft and Pure weighs 640 grams, compared with 610 in the Swans Down sold in Canada. That is, the true wholesale price for the same weight of tissue in Canada sold by E.B. Eddy is $29.29 for the Swans Down. E.B. Eddy must pay 8.5 per cent duty on its product going into the United States; thus, even allowing for a 17 per cent premium on the United States dollar, Eddy receives something like 25 per cent less for the tissue is sells in the US.

Obviously E.B. Eddy is not selling its tissue at a loss in the United States. Rather, Canadians are paying prices far in excess of the cost. The profits of E.B. Eddy prove the case. They increased from $1.6 million in 1977 to $22.2 million in 1978, and in the first six months of this year they almost equalled last year's total; they were above $18 million.

E.B. Eddy is not an exception among the forest industries in the exploitation of Canadian consumers. In fact, the foreign-based multinationals are even more guilty. The comparison is in your report and I would ask those of you who have it to turn to the page on bathroom tissues and paper towels. If you average the prices shown in that report, Mr. Minister, you'll find the price of bathroom tissue is 63 per cent higher in the stores you checked in Ontario than it is in the stores in the United States. The price of paper towelling is 52 per cent higher by the comparisons you made in that report.

I state immediately that your figures are not as comprehensive as mine. I use the figures of 45 per cent higher in Canada than in United States and 30 to 35 per cent for bathroom tissue of the same quality. But I am willing to take the figures you have shown here of 63 per cent and 52 per cent. Yet most of the tissue and towelling sold on both sides of the border is produced by the same multinationals. What is sold in Canada is produced in Canada; there is none imported into this country.

We went into another example earlier, and I'm not going to go into it again at this time. I refer to the price of lumber, which is 20 per cent higher in Canada than it is in the United States; that's for our own lumber, and has nothing to do with the costs of production.

I repeat the question: Why should Canadians pay so much more for products produced in Canada from our own natural resources? What is the explanation for this huge price differential which exists, according to your own report?

The chief smokescreen used in the forest products industries and other multinationals

which escalate the prices in this nation has been the Canada-United States dollar differential. This is what I have been trying to hammer home to you, Mr. Minister, in every letter I have written to you on this pricing issue.

What the companies have been doing is taking the American price and American dollars as a base reference price, and Canadian prices have been set simply by adding the exchange rate of 17 per cent as well as any import duty to the American base price and charging that to the consumers here.

Where a product is made in the United States and exported to Canada, that kind of pricing stands up. But where products are made in Canada with Canadian resources, how can that pricing system be justifiable?

[10:30]

For instance, a discount on the Canadian dollar has nothing to do with the price of the butter, eggs, lettuce, carrots, milk, apple juice, et cetera, all produced in Canada with Canadian dollar input. The prices of these products in Canadian dollars are very little higher in Canada than they are in the United States. In general, it can be shown that our primary producers are not using the dollar differential to inflate their prices.

Again, Mr. Minister, I'd like to refer to the report you made. If you take those products I have mentioned where the multinationals are not involved, where by and large they are sold directly by the farmer, or perhaps through a wholesaler to the retail stores, you will find that our prices here in Canadian dollars, according to your own report, are very little higher than they are for the same products in United States, in United States dollars. The dollar differential doesn't enter into the picture. It is the manufacturers, particularly the multinationals, who are using that gimmick to gouge the Ontario consumers.

Considering the very high level of foreign ownership in our manufacturing industries, the effects of this arbitrary pricing are very widespread and serious. Yet, Mr. Minister, you stand idly by without voicing a word of protest. In fact, you have bought the companies' line. Under the section of your report headed "Buffalo prices," you make this comment: "When the discount on the Canadian dollar is taken into consideration, Buffalo prices are found to be comparable to Toronto." We are comparing Canadian prices, with Canadian input and Canadian raw materials, with United States prices, United States input, United States raw materials at the United States dollar level. Yet you use that argument to say the prices here are no higher than they are in the United States or vice versa.

The second point is that I wish to suggest that the ministry research has been shoddy, minimal, inept and even biased. With the exception of the retail stores in Buffalo, the minister contacted only companies to get information; he never contacted the labour or the consumer groups or the chain stores in the United States. This practice, of course, has led to misinformation.

As already stated, the figures used in your letter of September 11 for tissue and towel prices were both selective and incorrect. I think I have documented that. The same kind of inaccuracies and bias is contained in your letter to me of October 9, Mr. Minister, in which you defend the pricing practices of the multinational detergent companies. You quote the wholesale prices of a 50-ounce package of All dishwasher detergent, $1.63 in New York and $2.17 in Canada, to show there is not a great deal of difference between the two. In fact, the United States wholesale price is $1.38; not $1.63. This has been confirmed to me not only by two supermarket chains, but also by Mr. George Porteau in the sales department of Lever Brothers in New York.

Mr. Minister, I have repeatedly requested that you make an in-depth investigation into a variety of products where there is substantial evidence that prices are excessive. Surely your own report on retail price comparison, which you have submitted to this committee, must cause you now to realize that such an investigation is justified.

For instance, even on the long-time issue of coffee prices, your report shows that you found the average price in Canadian stores, including one where there was a sale on, was 55 per cent higher than in Buffalo.

I say to the minister, and through him to the government, that if there is to be any fairness in the restraint program which this government has applied to almost every other segment of society it's high time that restraint program is applied to prices.

Mr. Minister, you have and accept the responsibility for consumer protection in a great many fields. I suggest to you that you have to now accept some of that responsibility, particularly based on the information you have put before us, on some protection for prices for the consumers of this province too.

Mr. Chairman: Mr. Minister?

Hon. Mr. Drea: Mr. Chairman, before we come down to the question of the paper

towels, there are a couple of other matters put in, which I would suggest have been put forward in a somewhat circumspect manner.

The first one I will deal with is the question of lumber prices. I am in receipt of a rather comprehensive copy of a letter—I believe it was to you from the federal department—signed by Mr. Lawrence. I take it you have received that letter on lumber.

Mr. Swart: I have received the letter. I am not sure of the signature.

Hon. Mr. Drea: From the federal department. If you will recall, in that letter they went to great elaboration on why the prices of lumber were being quoted in Canadian dollars. At the very time the dollar devaluation was taking place, there was a great demand for lumber of all descriptions in the United States. If I recall the letter correctly, part of that demand was caused by the quesion of the availability of kiln-dried lumber and so forth for the housing market.

At that particular time, the housing market was relatively active in the United States compared to now—that also was explained in the letter—and American construction supply firms were buying very heavily in the Canadian market to get the particular product they wanted for the American housebuilding market.

Prices were quoted in American dollars because of the question of supply and demand. Therefore, the availability of the domestic supply was reflected in the dollar devaluation.

Second, it became acute because of a particular form of structural lumber that was in very short supply in the United States. On the basis of that letter, it seems to me that it was something that was used in piledriving, or a rather particular product that was in very short supply. The Americans literally came up here and bought out the entire Canadian market to have an assured supply.

However, since June, there has been a significant downturn in American housing starts and in the use of lumber, because of inflation and a number of other restraint factors in the United States, not the least of which are the high interest rates and high mortgage rates. As that letter from the federal government points out to you, the supply of lumber in Canada is no longer short, there is a very adequate supply, and indeed the price of lumber is beginning to diminish.

On that basis, Mr. Swart, I suggest to you that it was not the Canadian producers, either in the woods field or in the wholesale distributing; it was the fact that a commodity had been in the doldrums in the market for the past three years. You can talk to any lumber supply company in northern Ontario; it was in the doldrums. As a matter of fact, their very economic foundations were extremely precarious.

With the devaluation of the dollar, an export market was opened up. At the same time, there was a significant demand in the United States for a particular type of lumber that was available in Canada. Therefore, it was a situation caused by supply and demand in the Canadian market. The Canadian producer is a much smaller one who ordinarily relied upon the domestic market for the bulk of his trade—although exports in eastern Canada were always very profitable if you could get them, and we are talking basically about the eastern lumber market. Part of the demand situation was accentuated by the devaluation of the dollar.

The market dried up in the United States, and that letter was very succinct about the quotes on lumber futures and the price of lumber; there has been the start of a drop back which was reflected in the supply and demand. I disagree that the Canadian lumber producer arbitrarily priced his product up to the amount by the devalued dollar, because he certainly doesn't have that today. That is a question that, as the letter from Mr. Lawrence points out, was dictated by the supply and demand situation in the United States.

Second, in terms of the farm products, you mentioned that in the east there was no devaluation in the stores. That is quite true. But, Mr. Swart, those quotations were obtained by us during the summer months, when there is a very adequate fresh supply in the United States, just as there is here.

I suggest to you that this winter, probably commencing in a month or two, Canadian products that are stored over the winter, particularly root products, will go sky-high because of the American demand, because the cost of transportation has been accelerated by the very rapid price increases in diesel oil there since the spring, because of the difficulties they may have in their allocation of gasoline, and because of the difficulties that the transportation sector has there, with most of the fruit and vegetables being delivered by independent carriers rather than group carriers.

This year, just as last year, the price of onions stored over the winter in Ontario will go sky-high—not because of the Canadian market, but because American distributors will be in here for the Michigan and the northeastern United States market. Carrots

and all those things will go sky-high in the wintertime.

If I gave you a quote based upon last winter—indeed, I am very confident it will go out in January; we test what the market is like, and I am not talking about lettuce or something that isn't grown here, but about products that normally are wintered over in storage in Ontario, Mr. Swart, you would find a great difference. Indeed, it will be even higher than the devaluation; it will be higher than the 13, 15, 16 or 17 cents, or whatever the price is.

Once again, I think you, in your particular area of Ontario, would recognize that the farm commodities are subject entirely to supply and demand. In the harvest season, they simply aren't taking very much of the Canadian product into the United States, because they have a surplus of those basics very close to home.

In terms of a food comparison or a butter comparison, which is subject to subsidy or lack of subsidy and to all types of artificial restrictions—I don't want to get into those—the price of a food commodity is a very difficult thing to adequately compare between the two countries at one time or another.

There is no question that from time to time in the winter, when we are entirely dependent on the United States for a large number of fresh food products, from the United States, grave concerns are raised. When lettuce goes to $1.45 or $1.50 per head, the consumer obviously has the right to ask why. On the last such occasion, the reason was heavy rains in the Imperial Valley of California which wiped out one whole lettuce crop. When the second lettuce crop came in on time, the prices also dropped.

If there is a shortage of supply of farm products in the United States, I suggest to you that exactly the same thing will happen as has happened in the case of lumber. In the United States, they have to satisfy their market. They are prepared to pay in American dollars because they are going to sell. Obviously, if you have a warehouse full of carrots and somebody is offering $1 American as against $1 Canadian, you are going to take $1.15. Nobody in this government, or anyone outside, has a tag day for farmers. They either sell the product or they don't.

There have been times at the end of the winter when the over-the-winter warehouses are relatively full and the crop literally doesn't sell because of a fresh, fairly cheap crop coming in from Mexico or Florida in the spring. Then the normal market garden crop comes in here.

Turning to the question you raise about the forest product companies and so forth, Mr. Swart, the letter that was written to you about the paper towels was based upon the information that we obtained. It wasn't just a question, as has been suggested, of calling up the company.

As I pointed out when I tabled the report—and I think everybody accepts this, particularly on the basis of the material I distributed—we sent people to Buffalo, New York. We picked up the products. We priced. In addition to the particular product that you described, we also took a look at the packaging. We went to a range of stores; not just a discount store. We compared it here roughly, as best you can in terms of a low-price box store, as it is known in the trade, as against a conventional store.

[10:45]

In addition, we asked the company why the wholesale price quoted by you was so low. They pointed out to us, Mr. Swart—and I think this has been abundantly established—that it was low, but they had been in the process since early July of raising it to an amount. There is no argument that subsequently that price increase did not go through. The reason it did not go through is that the Canadian company—Eddy—is trying to penetrate the American market. The established American companies are keeping their price down because they do not welcome the intrusion of E. B. Eddy into the American market.

As long as E. B. Eddy wants to stay in the American market, then E. B. Eddy has to meet the prices of the major producers in the United States. If the major producers get tired of the price war or the marketing competition—and there's nothing the matter with that; as a matter of fact, I think everybody tries to encourage that from time to time—and start to raise their prices, then you will see Eddy, certainly, in the vanguard.

In terms of contacting the union, I would be delighted to contact the union. I would suggest that if you want to go into these—and I don't ask you when you are in the United States to make a wide-ranging foray; I don't expect you to hit 25 supermarkets or anything like that. I know there may be some difficulties.

You may wish to reply to this later on. You said at one time you could give me certain material in confidence; I don't know whether it was from the union or from somebody else. I said that was very difficult for a minister to receive something in confidence, because it was being discussed

openly in a committee. Eventually, it depends upon the source of the material. For me, as the minister, it is very difficult to operate if the source of the material must remain confidential.

I would feel much more comfortable, and so would any of my staff, if the source were known. There may be very good reasons why the source cannot be revealed: they gave it to you in confidence, it might jeopardize their position or what have you. But it is very difficult to be able to track down a source when you have confidentiality restrictions on it.

Going back, if you want me to talk to the union, Mr. Swart, I wouldn't know which union to talk to here.

Mr. Swart: The Canadian Paperworkers Union has a research office in Montreal, if you are talking about toilet tissue.

Hon. Mr. Drea: I thought you were talking about getting some of these things at the retail level. If you will tell me which unions you want talked to in each and every case —you don't have to involve them; just tell me which unions are interested, whether it is the retail clerks or whatever, although when one gets into the United States, there are differences between unions, as you know. If you will tell me which unions, without comprising them or putting them in an awkward position—and this is based on your remarks—then I will be more than happy to talk to unions. I have always been more than happy to talk to labour organizations.

You have suggested that comparisons be done. I do comparisons from time to time too, Mr. Swart, but if there is nothing there of great public interest we don't necessarily bother to report them publicly. But if you want to have these things investigated to the depth you claim I do not do, then at the time you are concerned about something, would you please provide me in writing, so there is no argument about it, with the source of the information and the exact location where particular prices are effective, because they vary? I am not just talking about the name of a city; quite often prices vary between a range of supermarkets there or in market locations even within an urban area. Once I have that information, I will check it in a very detailed manner and will reply to you.

With regard to the All detergent matter, the quotation of $1.63 that I got in the United States was given to me in a letter under Lever Brothers letterhead. They went to great lengths—it wasn't just price lists—to go through the entire manufacturing operation. It was ascertained from the Canadian Lever Brothers operation. If I understand you correctly, the American Lever Brothers operation, on its letterhead, is telling you that at the time the Canadian company said the price was $1.63, which was on October 4, 1979—that particular quotation was over the signature of Mr. Ian A. Mackay, marketing manager, Lever Detergents Limited, Toronto. If you are suggesting to me that on October 4, 1979, Lever Brothers from the United States gave you another quote, Mr. Swart, then if I can have that information I will certainly go back to Lever and ask which Lever quotation is correct. There it is, in great detail.

Mr. Swart: But you didn't check with the supermarket chains in the United States.

Hon. Mr. Drea: Mr. Swart, I draw your attention to somebody who did something quite independently; we had absolutely nothing to do with this. The first time I saw it was when I read it in the newspaper; and that was in the Toronto Star Consumer Alert column by Marilyn Anderson. She came to the same conclusion I did. She didn't talk to Lever Brothers. If I read this correctly, she talked to another soap company, Procter and Gamble.

She also reported that one of the things they point out is the nine per cent sales tax. As a matter of fact, Procter and Gamble come to the conclusion, after going through a great number of things, including the prices of the different chemicals in this country compared to the prices of the same chemicals in the United States, et cetera, as of October 3: "If we convert the US wholesale price to Canadian dollars, assuming a 15 per cent exchange rate, the differential"—they are talking about the price comparisons on Tide —"the differential then is only four per cent. Furthermore, the Canadian price includes a nine per cent federal sales tax for which there is no US equivalent."

In terms of your asking about my concern for the consumer, Mr. Swart, I think my concern for the consumer has been very abundantly demonstrated. One of the difficulties, particularly in various chemical products, when you compare prices between the two countries—once again, this isn't from me; this is something by Joan Watson that appeared in the Montreal Gazette. Ms. Watson is probably the best-known consumer advocate in Canada. She is the Marketplace on TV and has a number of consumer columns across the country.

What she is pointing out is, when identical products are compared between Canada and the United States, one of the failings from the viewpoint of the consumer is that they are

not identical products. The comparison of Tide or other detergents in the United States —I will be very glad to give you this—varies because of different standards in different states and the federal excise tax, which is not applicable in the United States but is a Canadian tax. It is very difficult to make comparisons. She goes into some detail.

I don't want to hustle these things in Hansard; I'll give you the names. A very heavily advertised hand soap product is more expensive to make in Canada because of the climate. The reason is that in a cold climate, if it stands outdoors on pallets, the same chemical composition they use in the United States simply does not stand up and the product is affected. Therefore, they have to go to some expense to make a product that can be stored and used in the Canadian climate and that will give you the same combined deodorant and soap protection as you would have in the United States.

Mr. Chairman: It must be pretty expensive to make it in North Dakota.

Hon. Mr. Drea: It may be. Talk to her about this. It's not made for North Dakota. The difficulty is the Canadian market is different.

She is saying harder water in Canada forces them to produce a different type of product here that uses a slightly altered or perhaps substantially altered product. They have to compensate for harder water in the soap formulae. They even go into Scott papers. When members of the public sees shampoos on the American television, they wonder why they can't buy what they think is the identical product here. The shampoo is advertised in both countries but no mention is made of the difference, because Americans prefer a thicker shampoo. Canadian marketing experience is different.

I draw your attention to that, Mr. Swart. If you want a product adequately compared or a trend in products adequately looked at, if you want the unions talked to, all I ask—and I don't ask that in your announcements or in anything else you get down to the redundancy of saying, "Please check with the unions"; you can convey that to me in another way as to who they are. If you convey to me the source, I will go after the information in the best possible manner, because I do have concerns.

I do not accept the fact that just because the Canadian dollar at any given time is 14 per cent or 15 per cent different, that the price in Canada should automatically go up by that amount.

But by the same token, if you have a Canadian producer, regardless of the product, whose product is in relatively short supply and the Americans will buy it at the price, it is purely a marketing condition.

How can you go to the manufacturer and say that its obligation is to satisfy the Canadian market regardless of the fact that it can get a higher price for its product elsewhere? The government doesn't ensure the risk capital of that company. The government doesn't ensure its marketability. It doesn't do anything. The only time government gets involved is if the company goes belly-up because it hasn't been selling, and then there's a great demand of the Legislature or of Parliament, or some form of government, to come in and save the company.

[11:00]

Mr. Renwick: I just have one question. I understand the difficulties. Granted the goodwill of the minister towards the consumer and his interest in it, is the minister saying for practical purposes that any comparison is a futile operation?

Hon. Mr. Drea: No.

Mr. Renwick: All right. Is the minister prepared in some way to designate an area in the northern part of the United States, say in the northern part of the state of New York, which has some similarities, if for no other reason than that they happen to be bordering on Lake Ontario. They must have some geographical prehistoric similarity. We share Niagara Falls—whatever irrelevant consideration one wants to use. Will the ministry take the responsibility of deciding whether there is any basis for comparison?

If there's no basis of comparing prices that consumers pay in stores in a comparable area—geographically, climatically, historically, geophysically, whatever way you want to do it—then don't you owe it to the consumers of Ontario to tell them that that is the case; that it is an irrelevant consideration so far as you are concerned and that you will devise some other method by which you can ensure that the prices paid here are fair, proper and appropriate?

Surely every time my colleague, with the limited resources we have available to us, comes up with matters he wants an explanation for, it is not adequate to say: "I'm really interested in what the consumer is, Mr. Swart, but we can't compare them. They're different. The water in Toronto is harder than the water in Lewiston or Rochester or whatever it is. They're different companies even though they're owned by the same people."

Are you really throwing up your hands about comparative shopping of ordinary matters which most consumers are confronted with in the supermarkets where so many people shop these days?

It might be possible at precisely 10 o'clock on Saturday morning, if you were in the riding of Riverdale, that you could go to a Loblaw's store and to a Dominion store, or send two people with identical shopping lists there. We might be able to equate those figures are say, "Dominion's too high on this," or "Loblaw's is too high on that, but you got a bargain on this and you didn't get a bargain on that."

Are you really saying that the whole area of consumer protection is just nonsense?

Hon. Mr. Drea: No, not at all.

Mr. Renwick: On price matters?

Hon. Mr. Drea: Not at all. I thought I made that clear. I imagine some of the questions—you had about 10 in there—were somewhat rhetorical.

Mr. Renwick: Not really. I'm just trying to get at the basis of how we can help the consumer.

Hon. Mr. Drea: That's what I'm coming to now. The answer to your very simplistic overview, in which you ask whether it is impossible to do, is that it is not impossible to do.

The questions I raised were on an individual product in a spot location at a particular time. On the range of products, I think there can be very valid comparisons made. One of the difficulties with a comparison with western New York—you mentioned northern New York, but I think you mean the Buffalo area and through there—is that traditionally, that area has been the deep-discount area of the United States. It is the place where the supermarket and retailer wars are fought.

Why that is, I really can't tell you, except that it is a matter of record, and the fatality record in the business field there is somewhat substantial.

I would suggest to you that a very comparable area, where this kind of competition does not occur and where you can do a comparison, I think, is in Michigan—with all of the vagaries in there about not necessarily comparing a discount store there unless you're comparing a comparable thing here. Greater Detroit and southern Michigan is an area where the transportation cost is somewhat equivalent to the Canadian transportation cost and where there is not the sometimes artificially low price which appears from time to time and which, I say to you, is a prevalent marketing practice of major chains, regardless of which name they go under in the western New York area.

I want to make it very plain that I do not approve, condone or like the prospect of a Canadian producer, regardless of the ownership, doing an end run by having the Canadian buyer subsidize his operations in the United States. I don't approve of that at all. I condemn it. You raised that point too.

I think it is very comparable. Another comparison, I suppose, would be the Chicago market. The reason I shy away from that is that there is an expense in that. It's a little bit more difficult having somebody go to Chicago all the time vis-à-vis being able to go into the Detroit and southern Michigan area.

Mr. Renwick: I imagine, on a smaller scale, Cornwall—

Hon. Mr. Drea: Yes, you could do that, Cornwall versus Messina; but I'm not absolutely sure it would show you anything. I think you have to take a major metropolitan area. You take into account – and you can see this in our food monitoring thing – the price differential that used to exist between, say, Toronto and Hamilton or Toronto and Kitchener is no longer there; they've come down virtually to the Toronto price because of competition.

If you take into account the Golden Horseshoe vis-à-vis what I call the greater metropolitan Detroit area, which extends to Flint, Monroe, et cetera, it's comparable in population, with comparable incomes, and you don't have this peculiar marketing system that is indigenous to western New York.

Mr. Renwick: All right, I don't want to take up a lot of time on this. It's obviously going to be a continuing, ongoing matter after this morning. Are you then saying that you are prepared to designate one or two areas which in the best judgement available will be considered to be comparable areas for comparison purposes?

Hon. Mr. Drea: Yes.

Mr. Renwick: Also the principles on which you believe comparisons can properly and legitimately be made?

Hon. Mr. Drea: Yes.

Mr. Renwick: Isn't it true that in all of those situations which my colleague has mentioned the overall points that he's made get lost in the minutiae of each of these problems?

Hon. Mr. Drea: Precisely

Mr. Renwick: Let's agree that you will define those areas so that you know and we

know that we're talking about the same areas. Let's agree on the principles and then let's have regular analyses made where we can focus in on them. That's not to limit people from bringing up other matters if they want to. Let's at least form a basis that we can have something other than an open-ended, round-robin discussion about this problem.

Hon. Mr. Drea: I will go to this extent; I don't know what a comparable shopping basket is with items, but we will price it and I will share with your caucus what the components of that comparable shopping basket are. Obviously, not every price is going to be checked. I tell you in advance, and I think your caucus would agree, that products such as meat, butter and dairy products have to be excluded because there are just too many federal-provincial and state-federal differences in there.

One of my problems every year—and we now send somebody down there—is the pensioners from the United Auto Workers in Windsor. They're appalled at the chicken and fowl prices when they can pick up the Detroit Free Press and see what the prices are in the state of Michigan. You have to go down and explain that this is deliberate agricultural policy of the state of Michigan in the United States. It's not the same as a can of peas moving across the river.

In certain commodities—I will be quite frank with you—particularly cuts of meat and so forth, it is virtually impossible to compare. I think you can agree with that.

In the shopping basket will be staples and household things that are not subject to government or quasi-government marketing—

Mr. Renwick: I agree with you that those have to be looked at separately.

Hon. Mr. Drea: I just want to say to you, though, that we will devise a comparable shopping basket of 25 or 30 very significant, basic, essential products. We will take one size for rather obvious reasons. When I talk about household products, I mean such essentials as cleaners or some of the more basic personal products such as towels and tissue and so forth. We will do it monthly, alongside the monitoring report we do on the food prices in Ontario.

I may be optimistic. It may be that there will be certain vagaries in the state of Michigan. If we can't work there, we will just have to find some other place to do so.

I'm glad you mentioned it. We don't mean to inhibit anybody from anywhere in the United States, Quebec, Manitoba or some other place picking up a product and saying: "For heaven's sake, I paid twice as much for that last week in Toronto. This is not a discount store. This is not special. I intend to make some inquiries on it."

I am not going to say the only place we compare with is that area in Michigan. I will compare individual products upon request, but I think you pointed out something extremely significant. The cost of purchasing is a very major item right now, and it's going to become a more acute item. These larger questions get lost in the specifics and the minutiae of where you bought it, how you bought it, whose tax was on it, the point of origin, the discount, et cetera.

Mr. Renwick: Just two sentences: First of all, your comment is very fair. My remarks were very simplistic. I am only sitting listening to what the discussion is and what has gone on between my colleague and you on this matter. I defer to him because this is a field in which he has developed an expertise which I don't have.

I just want to get out of this never-never land, where we would never ever be able to compare things. There must be some basis for doing that. If not, to be honest with the consumers of Ontario, we've got to tell them: "We're sorry. We can't compare; so we can't use a comparative test."

Hon. Mr. Drea: We will just have to develop some kind of a weighted average, Mr. Renwick. I don't like those, but you can always do it.

Mr. Renwick: I want to tell you why I'm interested. You may not have the identical experience but I'm sure many of my colleagues have the identical experience.

If you go into any shopping market, any of the chain stores in Toronto on a Saturday, or any day, and if you stand and watch for just a little while, you will see some older person or some disabled person walk around carefully looking at everything. If you follow some, they will come to the counter and find they haven't got the money to buy even what they have carefully shopped for, and they have to put some of the things back or select something else.

I find this extremely upsetting and disturbing, particularly when I am fortunately able to walk in and buy these things. If there's a luxury, if occasion moves me to say, "Today we'll have a capon chicken instead of something else," I have it. Call it guilt or whatever the hell you want, I find it very difficult. That's my second long sentence about my motivation in getting after this question.

Hon. Mr. Drea: I know exactly how you feel. That's one of my concerns too. I have

already shared with the committee my concerns about the electronic cash register and that type of situation.

[11:15]

Mr. Chairman: One of the great pleasures the chairman has, which the members of the committee don't have, is watching the nonverbal communication of some of the staff people in the audience as various debates go on, and I must say I enjoyed the last few minutes.

Mr. Williams: In perusing this news story that you had circulated, Mr. Minister—

Mr. Breithaupt: Mr. Chairman, will you complete this matter now and deal with the liquor vote matter? There are still a few questions on technical standards.

Mr. Chairman: I am going to give Mr. Swart a few minutes, and Mr. Williams and Mr. Johnson.

Mr. Williams: In connection with Joan Watson's article in the Montreal Gazette, in one paragraph she makes reference to the fact that a concern expressed by many Canadians is that they see certain products advertised on American television but in fact find that these products are not available on Canadian shelves or, if they are, they're at a different price than what might be advertised.

It brings to mind one point I have some concern about I don't know how legitimate it is, but in speaking to people in the Canadian Manufacturers' Association there is a concern that has been raised with me at one point in time; I don't know what your experience has been in your ministry as to how significant or how valid this concern is, but it's one that they suggest is a cause for price differentials in some consumer products.

It has to do with the packaging situation we have in Canada, where it's obligatory to use the two languages on packages, French and English. It's no difficulty with regard to those companies that have domestic facilities where they do all their packaging and processing in the country, but it has been brought to my attention and suggested that there are a great number of items that are manufactured abroad, or primarily in the United States, where all the processing and packaging is done stateside. Because of the limited volume, compared to US distribution —using US distribution statistics—it's a marginal thing as to whether they would send the product into Canada; whether they would do a special run of packaging with a special label to meet Canadian standards and needs. Where they're not manufacturing in the country, this has presented problems.

Regarding the comment in the article that some products cannot even be found on Canadian shelves, I understand from speaking to people in the Canadian Manufacturers' Association that it is directly attributable to the fact that they have found that it did not justify their doing a special run with special packaging to accommodate the Canadian marketing situation. They indicated to me that, quantitatively speaking, in excess of 1,000 items used to be on shelves in the stores in Canada but are no longer here simply because of that logistical problem.

The other aspect of it relates to the cost differential. It has been suggested that some, notwithstanding, have gone ahead and done the special runs, but in doing their bottom line figuring they have felt that they had to add on to the Canadian cost a quarter of a cent, or a half a cent, or whatever, to do these special runs and to do the distribution through Canada simply because of that packaging problem.

I don't know how valid that is. I was speaking to very responsible people in the association and I understand that because of that problem it's the consumer who bears the brunt of it, of course. They had gone to the federal authorities asking for exemptions on certain product lines that aren't processed and packaged domestically but have to be marketed, where that marginal situation exists. The cost differential is directly attributable, they claim, to having to do that special run for a limited volume and with special preparation and packaging. Mr. Minister, can you indicate to us whether this is in fact a significant problem, whether your ministry has had experience in this field and what the situation is from your prespective?

Hon. Mr. Drea: First of all, we would not have much difficulty with this, because labelling is entirely a federal responsibility, and properly so.

From my perspective, there have been problems from time to time. I don't think they are significant. Quite frankly, at the moment it is somewhat popular to use the bilingual label as a problem.

I would think that for every one product manufactured offshore where the producer or distributor—generally it is the distributor—has refused to put a bilingual label on it because of the cost, there are three or four products that do not come in here because they will not attach the federal warning labels for hazardous products or what have you. I am referring to our labelling with the warnings, not necessarily for a totally hazard-

ous product. I am talking about the warning labels that are on a number of goods here.

Mr. Breithaupt: These are the symbol labels for poison or explosion?

Hon. Mr. Drea: Yes, right; for which I think the federal government is to be commended. The public of Canada demanded it for years, and some have said, "Why did you wait so long?" For every one that does not come in because of the bilingual thing, there are three or four others that do not come in because of that other type of labelling.

Mr. Williams: That's another example: the problem of packaging.

Hon. Mr. Drea: Mr. Williams, I want to say, as the minister, I think there is a price to being a Canadian. While there was such a public demand for the hazardous warnings and notices on some of the textiles for the convenience of the customer—in other words, "Can be dry cleaned or washed" – that is something that is not too prevalent throughout the United States or in the offshore markets. There is a price to being a Canadian.

Regarding the bilingual label, there is a price to being a Canadian. I know some people get upset about that. I am, in effect, the chairman of the board of the 11th largest company in the Dominion, which is the Liquor Control Board of Ontario, and I have never seen a liquor producer who wanted to get into this market, whether it is Budweiser Breweries or the California wines—I think there is an exemption on certain types of American whisky and a trade-off with some labelling of Canadian whisky going in.

When one of these manufacturers wants to come in here, all the liquor control board says is to conform to federal labelling standards in terms of alcohol content and, where practical, to use bilingual labelling. Oh, they have hollered, but within about a week, when it is that or nothing, you would be amazed how they can rationalize their production.

I don't want to single out Budweiser, but I might as well. Budweiser had some difficulty with that, and Budweiser found they could switch. Instead of using one of their breweries which was somewhat closer to here, to make the product that is now listed and sold here, with production schedules they found they could make it in Cleveland or one of the Ohio breweries. It worked out quite well; they could meet the Canadian standards.

An offshore producer or distributor who wants this market is going to have to face up, just as the Canadian consumer does, to the fact that there is a price to being in Canada and being distinctively Canadian. I am not talking about your prices being up or anything, but there are certain cost factors in not having free and unlimited access, surplus commodities, dumping and all of that. They are going to have to conform to the price of doing business in the Canadian market.

In fairness, when there has been a very small-volume product that none the less is somewhat essential or very necessary to a limited number of Canadians and would be withdrawn because it is totally impractical to devise labels—and you have to do them in your own country now, because of GATT; you cannot relabel once something has come in—the federal government bends over backwards to accommodate it. They will take a stamp on a carton going through customs, and that conforms to the Canadian labelling.

If they consider the request to be frivolous, they say, and rightly so, "No, you do just as others have done."

Mr. Chairman: I would like to remind the members that we have approximately 10 minutes and 33 seconds left in these estimates.

Mr. Williams: Just a supplementary, if I might, Mr. Minister. To come specifically to the point in doing your marketing surveys, have the people in your ministry ever specifically had this particular problem put to them as being a reason for having put an add-on to the former price?

Hon. Mr. Drea: No, Mr. Williams. A far more substantial reason for any price differentials that are somehow unexplained is the nine per cent federal excise tax which, since it is collected at wholesale, the public never sees. That is invariably one of the causes, most of it is around that federal excise tax.

Remember, by and large, most of your food products are either domestic in origin or are packaged here from bulk et cetera.

Mr. Chairman: Thank you. Mr. Swart, I will give you one minute and then we move into liquor licensing.

Mr. Swart: I just want to say I am pleased with the minister's commitment, as I understand it, to do a comparison of food basket prices with prices in the United States. I have checked in Michigan and you will find us slightly higher, but the wholesale prices are basically the same there.

I would like to ask the minister if he would give a commitment to go somewhat further than just the retail food basket and, where he finds a wide discrepancy—and I want to use toilet tissue example again, if I may—to do an in-depth investigation into that.

On toilet tissue, for instance, Mr. Minister, you will find that there was a 15 to 20 per cent price differential between Canada and the United States when our dollar was the same. Now the differential is almost 45 per cent.

Your answers don't totally satisfy me on this, and I presume they perhaps don't even satisfy you, with regard to the reason for that differential. So I would ask if you would go further. The retail basket is a good start but, where you find there is this unexplained differential, would you do in-depth investigations into those? The toilet tissue is a good place to start.

Hon. Mr. Drea: Mr. Swart, in order to clear the air on toilet tissue, which seems to vary from day to day I will have our chief economist complete an in-depth investigation. It will take some time but I will send you the results of that before the next session commences Mr. Swart.

Mr. Swart: Would you do one thing further? Would you have him contact me occasionally during that?

Hon. Mr. Drea: Yes, Mr. Swart, I want to make it very plain. I said my only concern on a spot product is this matter of confidentiality. It makes it very, very difficult for us to be able to track a source when someone says "No, it's $1.50." We say "No, we have it as $1.12." They say "Where did you get that? It's a buck fifty." Now that is the only problem.

I can understand from time to time the need for that, but I am saying that really makes it difficult.

On vote 1507, liquor licence program:

Mr. J. Johnson: Mr. Minister, I have two questions. One is about special occasion permits and primarily in regard to service clubs and church organizations. With the introduction of so many lotteries here in Canada, we have taken away a lot of the fund-raising revenues of these service organizations.

What is the minister's policy regarding these permits? Are they harder to obtain, or is consideration given to the fact that they have to swing into bingos and dances and other methods of raising money in lieu of the money they have lost through the lotteries?

Hon. Mr. Drea: First of all, Mr. Johnson, I would dispute that they have lost any money because of the government lottery. The non-government lotteries, which are under my jurisdiction—that is, all forms of bingo, Monte Carlo nights, raffles, draws, or whatever, other than Wintario, the Provincial, Loto Canada, and Lottario—now gross $260 million a year. The only way the proceeds can go is to charity in a great number of dimensions. It is a pretty broad definition; community betterment is probably a better description. They now net, give or take a million or two, because I haven't looked lately, in the vicinity of $100 million.

In terms of what they are raising with that money, they are raising more money from bingos with prizes from $25 and $50 up to $5,000, depending upon the event and where it is. They are now grossing more than thoroughbred racing. Thoroughbred racing will have a gross this year of somewhere around $244 million. Bingo, Monte Carlo night, et cetera, will gross $260 million.

[11:30]

The ability of service clubs, the charitable organizations, churches or ad hoc community groups to generate funds through social gambling, fun-filled nights, or whatever you want to call it, surpasses the ability of the Ontario Lottery Corporation to sell Wintario, Provincial and Lottario tickets. They do a higher gross and a higher net; so I think it's erroneous to suggest that the service clubs are having some difficulty.

There is no question, when they first came in, it was a concern. I raised this the other day about casinos. Casinos would wipe them out.

In terms of the special occasion permit, because we do have controls, particularly in a Monte Carlo, we do not issue—if I understand correctly—at bingos. Do we issue special occasion permits to bingos? No. Because bingo is a sustained thing.

Mr. J. Johnson: It's hard to drink and play games.

Hon. Mr. Drea: No. Invariably, while bingo licences are quarterly, they go 52 weeks of the year; you would be licensing them, on a rotating basis, almost as a hotel. That's the reason. It has nothing to do with the ability to gamble and the ability to consume.

Mr. Breithaupt: It's all set for them for the week.

Hon. Mr. Drea: That's right. At a Monte Carlo night, or a fun-filled night, whether you want to play blackjack, the wheel or what have you, there is a limitation. The bet now is $1; we will probably raise it to $2, although I don't know. But there, because it's one-shot, we do issue special occasion permits.

You cannot get the special occasion permits, or the board won't even look at it, until that Monte Carlo is cleared by us. The

reason is that there is a screening process for Monte Carlos. The police departments in the province have designed the application forms for rather obvious reasons. Once you get your Monte Carlo permit, and you have reason for a special occasion permit in connection with either a sale or no sale, then there is no problem.

Where you run into problems, Mr. Johnson, is where it is a dry area. They say: "Look we don't want to vote it wet. We just want a couple of fun-filled nights a year." We say, "Look, you cannot have a special occasion liquor permit when the law of the area says it is dry." They say: "We didn't realize that. We are going to have a vote." If they will give us reasonable grounds, and if they're really going to have a vote, we will issue one or two in the area as a kind of test. People can then make up their minds, invariably, how they want to vote. But, as I said a couple of weeks ago, with just the mere pledge to have a vote, we used to say, "Okay, we will issue." We were burned very badly; the votes just weren't coming up. We are very careful now.

The other difficulty is that we have certain conditions. We don't want the type of thing where they're splitting with the house and all kinds of arrangements. We want the finances right up front.

From time to time—and it was raised in the House last year by Mr. Roy—I have to face the "indigenous reality" of eastern Ontario. They have far more of these special occasion permits in the smaller communities. Literally, they don't have a hotel. That's it. They have different social customs. They celebrate wedding anniversaries—not the 25th or the 50th, but the fifth, the sixth and so on. It's a different social milieu than here.

What we have done is we have sent out the board, or Mr. Cooper's department, and called in all these people—the Lions, the Kiwanis and so forth—who felt aggrieved. When they leave the meetings with the board, they are cheering. They didn't really understand. Now that they understand and can see the procedure and so on, they are absolutely delighted and continue on. We've gone to great lengths on it.

I'm going to be ruthlessly honest with you. There are a great number of abuses in special occasion permits in this province. We have to watch constantly that the hotel or premises—which is a business that pays business tax, realty tax, property tax, wages, et cetera—is not undermined by somebody who rents a hall down the street, cuts the price of the alcohol and has a dance.

We went to the extent of going to one community one New Year's Eve in this province. The hotels closed at six o'clock on New Year's Eve. The reason was there were three special occasion permits in town which were attracting crowds of more than 1,000 to dance. They were profit-making. They weren't just "no sale." When you get to a situation like that, which affects the person who has to keep the premises, who has to meet all of our standards all of the time, et cetera, then you have to do something.

Mr. Chairman: I'm sorry to interrupt you, Mr. Minister, but I have no alternative. The time having run out, we must take the vote.

Under the procedures, however, it would be perfectly permissible for the minister to make a ministerial statement, which would not be included in time. Indeed, if the committee wished to remain sitting and ask a few more questions, with the instructions of the committee I could instruct Hansard, after having taken the vote, to continue recording any deliberations that this committee might have.

I am now going to deal with vote 1507 and with vote 1503, which is outstanding.

Vote 1507 agreed to.

Vote 1503 agreed to.

Mr. Chairman: Shall I report the estimates of the Ministry of Consumer and Commercial Relations for 1979-80 to the House?

Some hon. members: Agreed.

Hon. Mr. Drea: Please do it before December 31.

Mr. Chairman: I intend to do it tomorrow afternoon. If it's the wish of the committee, I believe the minister has some statements. I also believe that Mr. Williams has a question or two. If the committee would like to stay for a couple of minutes, we can continue, even though, technically, we're not in estimates.

Mr. Johnson, did you have anything further?

Mr. J. Johnson: I pass.

Hon. Mr. Drea: Before you go on to some other things, Mr. Chairman, first of all, there was a request by you when you were outside of the chair—I think Mr. Ziemba was the acting chairman at that time—that the minutes of the board of directors of Condominium Ontario be tabled for the committee. Here they are.

Mr. Chairman: Fine. They'll be very useful.

Hon. Mr. Drea: There was a request by Mr. Davison on a matter dealing with Ontario Housing. He said it was outside of my jurisdiction, but he wanted me to use my good

offices to assist. I have not been able to do that yet. I will report to Mr. Davison directly within the next few days.

Mr. Swart: I have something, too. You were going to table a report with legal advice on the jurisdiction which you had over retail prices. I think you gave that commitment to Mr. Renwick. That will be forthcoming, I presume.

Hon. Mr. Drea: I still haven't received that. When I get it, I will file it individually with all listed members of the committee.

Mr. Chairman: I think it would be a lot easier, Mr. Minister, if you simply sent it to the clerk, who will distribute it.

Hon. Mr. Drea: All right; however you want to. You will do that?

Mr. Chairman: We will do that.

Hon. Mr. Drea: Okay. I didn't know if you could do it after my estimates were over or not. That's fine. I'll do whichever is the simplest procedure.

I just want to make a few remarks. Mr. Simpson is going to convey them.

There is still the matter that was raised with us about energy-saving devices, gimmicks and products.

Mr. Chairman: I raised that issue, I believe.

Hon. Mr. Drea: Yes, the chairman raised it while sitting as a member of the committee. We dealt with energy-saving gadgets. At that time, there was no request before us to deal with additives, which are not gadgets. We went to some length on the gadgets. We now have something on additives, because the trend now is not towards the devices, because of the very reasons we outlined: the National Research Council and ourselves, through the Ministry of Transportation and Communications in one or two cases, have tested these products and found them not living up to the claims.

The difficulty with additives—and I'm talking about things you pour out of a can—is that it is virtually impossible for the NRC, because of budget and other constraints, to test these. We wanted one tested but the cost by the Ontario Research Foundation for just a routine test is somewhere in excess of $50,000. You can't just put them on a machine.

We've had some concerns expressed to us, in this committee, about the question of additives. Mr. Simpson, who is our business practices director, will be able to shed some light on very interesting guidelines for you. It's very brief, and it's from the National Research Council. I suggest to you that this is going to become more and more of a question to you, as individual members, because of the price of gasoline, fuel-saving devices, et cetera. Mr. Simpson can do that.

Mr. Simpson: Thank you, Mr. Minister. As you know, as a result of the discussion at the committee a couple of weeks ago, we have been pursuing the commitment to produce some information material for the public that will help them make decisions in this area. As the minister said, we have pursued it in a number of directions, and it has led us, primarily, to the National Research Council.

Yesterday, Mr. Chairman, you gave Mr. Drea some material on one of these particular products. In your note, which I have, there was some thought that perhaps the Ontario Motor League had done some work on this particular one. As it turned out, through inquiries we made yesterday afternoon with the motor league, they have some but they have not engaged in any testing activity in respect of the particular product.

Mr. Chairman: Just so that we can be perfectly clear, what we're talking about is a product called Sta-Power, for which a constituent of mine had purchased a franchise. The total amount of the franchise was $3,500, of which he had paid $1,250 down, and the rest would be paid, including eight per cent interest.

Mr. Simpson: This particular line of products are what are called "engine conditioners." They vary by title but, basically, they are crankcase additives and gasoline additives. This is the family of products we're talking about.

I guess these additives constitute the biggest family of products that the National Research Council has looked into, comprising 50 or so out of the 100-plus products they've examined. They've looked at everything from attachments to carburetors, to exhaust systems, and all kinds of things.

When you come to additives, I can't be too categorical because, as it turns out, when the NRC people are commenting on these—and they're quite willing to comment; they've done 31 of these studies so far, and the reports can be acquired by the public. But when it comes to additives—and I made it a point to talk to one of our mechanics who works with us in our car repair initiatives—the consensus seems to be this: If you have a car that has a number of problems—it's not well tuned, it's full of sludge and carbon and all kinds of other things—maybe, just maybe, the additives will act as a detergent. They will clean out the carbon, they will clean out

the sludge and you will get some performance betterment.

In reading the National Research Council material, and in talking to our mechanic, my reading of the situation is that in a well-tuned car—one that's kept right up to date; one that is kept tuned up and all the proper lubricants are used—the additives are perhaps a bit of a luxury. It's a discretionary kind of thing where the performance improvement might not be that visible.

[11:45]

You can deal clearly with gas-saving gadgets. You put them on an engine, on a dynamometer, you attach them and you get an answer. Additives is a little more difficult area. As the minister says, the NRC has done some, we inquired of one organization to test another, and it started at $50,000 to do the basic testing.

I think it boils down to a judgement call. With respect to additives, the officer at the National Research Council would be happy to comment, I think, and would comment along the lines that I have suggested. That's about it, Mr. Chairman, in the light of the direction we've taken in this and the time we have had to look at it.

Mr. Chairman: I appreciate the difficulties, and I certainly appreciate the fact the ministry is moving in a very positive direction on this matter after I brought it to its attention and perhaps even before.

I would like to ask one or two questions about Sta-Power, since they are selling franchises and the franchises are fairly expensive. The particular constituent of mine who bought one was in the hospital; he was worrying about his financial future, having invested what amounted to $3,500 in the franchise. I am concerned about that. He is an automobile mechanic by trade. He has tested this Sta-Power on his own car and on other people's cars; he claims that it works and he is sold on it. He talks quite reasonably about it. I suppose, after investing $3,000 you'd have to believe the product worked.

They say in their advertising that they were tested in Britain by the Motor Industry Research Association. Is that a legitimate, well-known organization?

Mr. Simpson: We have had no chance to check on that, Mr. Chairman. I have no reason to believe that they are or aren't; I just don't know. I would simply defer, and I would pass that along to my colleague at the National Research Council to see what he says.

Mr. Chairman: Would you and the National Research Council test the claims, particularly in section 3, that were presented to me under the title "Lab and Track Proven"? Certainly the best news would be that this is a good product and the people who have bought franchises in it haven't wasted their money.

In the hour I spent with him, he almost convinced me to put it in my car; so I guess the salesman has sold him at any rate. It certainly is not the kind of thing that is in some of the gimmicks and devices that we looked at earlier. But could you at least get back to us on the claims and find out somethings about what this lab is in Britain that has tested it? I'd appreciate that.

Hon. Mr. Drea: One of the things we are going to be producing over the winter, and in conjunction with the federal government, is a booklet on energy saving as it relates to your automobile. We want to go into some criteria on how the average customer can take a look at the claims and evaluate them, because this is the difficulty. If you want to put out that something may or may not help your car in that kind of language, that is one matter. But when you start putting out claims of 12 miles to the gallon et cetera, this is where the difficulty commences.

I am going to be discussing this with my federal counterpart in the near future. He is very concerned, because again he sets certain standards. Most of these products are produced offshore, at least not in Canada. He is concerned, and the NRC is concerned. The federal Minister of Energy and his provincial counterpart are somewhat concerned. We want to do this for the benefit of the consumers in this province. If other provinces want the work free, they are perfectly entitled to have it or to reproduce some kind of, if you want to put it in quotes, "an intelligent person's guide to energy saving," because with the price of gasoline, diesel fuel and other things, people are now very interested. We want to produce it and, as I said before, without discouraging people from attempting to do anything in energy conservation, we want to go into it in a positive way. There are a great number of things you can do by yourself, like taking your foot off the accelerator, keeping your car tuned, et cetera, and when you come to some of these other things, to describe them realistically and leave them up to your good judgement.

I think the thing that has to be underlined, which is something that is never mentioned too much, is that Canadians, particularly in Ontario, are the greatest individual car tinkerers anywhere in the world. That's why you see the multiplicity of automobile supply

places. You wonder how they could all make a living. They all do very well. There is this great tendency here, and we want to try and provide that guide.

Mr. Chairman: I wonder if, in taking this very welcome move, the minister would also, perhaps in conjunction with the Minister of Transportation and Communications (Mr. Snow), move into the whole area of education in the trucking industry. There are certain gas-saving devices that we know of, such as coatings on cabs and wind shields and so forth, as well as good driving methods, that can save as much as 25 per cent.

Hon. Mr. Drea: It seems to me that at least two Ministers of Energy ago—I believe it was Mr. Timbrell who was the minister somewhere around 1975 or 1976, when the energy thing first burst upon us—the Ministry of Energy was doing some work in that regard with highway transports. As I said, we will be working with the provincial Minister of Energy now, and I will convey those thoughts to him. I think that too is very important.

One of your problems today is not so much the highway truck but the van. The van is literally ramming against the wind all the time because of its configuration. It is a straight, almost head-on, brick-wall effect.

Mr. Chairman: Mr. Williams had a question.

Mr. Williams: In your interview the other day on the Betty Kennedy show, you made reference to the increase or decrease in overall liquor consumption, and you said in exception to the decrease of one per cent was the seven per cent increase in consumption of wines.

Hon. Mr. Drea: Compounded.

Mr. Williams: Have your people been able to assess what percentage of that seven per cent is related to domestic wine consumption as opposed to imports?

Hon. Mr. Drea: It is very difficult. It will now become possible because two events have taken place. The panic buying because of high prices which, at least in my view, didn't materialize as high as the speculation, completely distorted the sales picture in the tail end of the fiscal year in the months of March and in April. We are still trying to get a handle on it, because the people who bought at that time are not heavy consumers; it's probably still in the cellar.

Secondly, the strike of the Société des Alcools du Quebec, or the Quebec Liquor Corporation just ended last week. That completely distorted our sales pattern in eastern Ontario. They hadn't sold a bottle of anything in a Quebec liquor store since July 1. They were selling in grocery stores, no question about that, but that's only 40 brands. A number of people were buying in Ontario, in our stores in eastern Ontario from Pembroke right down to Cornwall, who otherwise wouldn't have done so. Now that's over and we can get a handle on it.

All I can say to you, Mr. Williams, is that Ontario wine is now back to where it was in 1974. It's about 50 per cent, by gallon, of the total wine market. You can't measure by price; the gallonage is the accurate measure. I don't think that is attributable to price. I think it is attributable to two factors. The pop wines—Baby Duck, Cold Duck, Baby Bear—are very popular, not only here but overseas. Those lighter content wines are increasingly becoming a people's choice because of their seven per cent alcohol content. It is related to health, and that seven per cent really attracts them.

Second, the varietal wines of Ontario, rather than the traditional type of wines produced from Labrusca grapes, are now coming into their own, particularly in the whites. There is a significant demand for those based upon quality. It is not necessarily a matter of price.

Mr. Williams: What do you call them, fortified wines?

Hon. Mr. Drea: No, the day of the fortified wine, or the 18 per cent wine, is gone—not only in this province but elsewhere, even in Newfoundland, which traditionally wanted a higher alcohol content or a heavier drink, the heavy dark rum and the fortified sherry, because of the climate and the tradition and so forth; a very warming drink for a rigorous climate rather than a social one.

I was in their stores not too long ago and there is a trend away even there. The big seller now is the pop wine, which is seven per cent. In the conventional table wine area, it is 11 to 12 per cent. The day of the fortified wine is gone.

Mr. Williams: You used the term "bridal." Did I get that correctly?

Hon. Mr. Drea: Varietal.

Mr. Williams: Oh, I'm sorry.

Hon. Mr. Drea: The only reason it is a varietal is it is a particular form of grape that is grown to produce an individual type of wine such as they do in Europe, rather than the labrusca or the Concord where you produce every kind of wine out of a single grape. A varietal grape, such as the Marechal Foch or the Pinot Chardonnay, is not suitable

for eating. It is a very small grape and it produces a particular variety or taste of wine. Those wines now are a very high quality wine made in this province. Indeed, some of them are in extremely short supply because of the great demand for them. This has accounted for a substantial rise in the market. When we do the seven per cent compounded in wine consumption annually, that's all wine.

Mr. Williams: Imported and domestic?

Hon. Mr. Drea: Everything; just a wine product.

Mr. Williams: Right; I was just wondering whether a breakdown had been done between domestic and what's in that seven per cent increase.

Hon. Mr. Drea: We can tell you in any given month, but our problem is we can't tell you why it is happening, because we had the panic buying, which wasn't in Ontario products, and we had the Quebec liquor strike. Remember, a number of Ontario products are in the Quebec liquor stores. People who are used to them and couldn't get them, came over to our liquor stores in Ontario and purchased them. The whole system is completely out of whack. Now that those two things are gone, we can have a relatively normal last quarter or last half and we can give you measurements that will mean something.

Mr. Williams: For categorization purposes, how does the board classify it when you are talking about domestic wines? Are they talking strictly about Ontario-produced wines or Canadian-produced wines?

Hon. Mr. Drea: You have Ontario-produced wines; then you have domestically produced wines, which are the other nine provinces.

Mr. Williams: So they are still classified as domestic wines.

Hon. Mr. Drea: Basically British Columbia, although we do list four Quebec products. There are very small individual vineyards in Quebec; it's a specialty market. The sales aren't very significant, but we list those.

Mr. Williams: I thought British Columbia was the only other significant source of Canadian wines.

Hon. Mr. Drea: For practical purposes, British Columbia is 99 per cent of the domestic product other than Ontario.

Mr. Williams: Thanks.

Mr. Chairman: Thank you, Mr. Williams. Thank you, Mr. Minister; our appreciation goes to your staff as well.

The committee adjourned at 11:59 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Attorney General



Third Session, 31st Parliament
Thursday, November 1, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 4:01 p.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

Mr. Chairman: I am going to recognize a quorum. We have 20 hours in the debates of the Ministry of the Attorney General. I remind members of the committee of the standing order 48(b) and (c) which places an onus on the chairman and members of the House to exercise caution in adhering to the rule of relevancy during the course of the estimates. As chairman of this committee, I will be enforcing as vigorously as humanly possible the apportionment of time available among the minister, the opposition critics and other members.

I will also allow a certain latitude on the first vote for the minister and the two opposition critics only, and with some degree of flexibility therein; after the first vote I will adhere strictly to the item under discussion. This is the only fair way in dealing with it; it means I am expecting that not everyone is going to come in and try and get his particular item in under the first vote.

May we have the opening remarks by the minister?

Hon. Mr. McMurtry: Yes, Mr. Chairman, colleagues: I'd like to open by making a statement, if I may, Mr. Chairman. Before turning to my formal statement, though, I would like to say that I am once again pleased to be in the company of your distinguished committee on the administration of justice. We had some very interesting sessions in the past and I am sure that we will not be disappointed during the debate of the Attorney General's estimates on this occasion.

Before we begin the detailed discussion of the estimates of the Ministry of the Attorney General, I would like to make a statement highlighting some of the activities of the past year and indicating some of our intentions in the coming months.

This is the fourth time I've had the pleasure of presenting the estimates of this ministry and I must say I do particularly enjoy this part of the political process, because it gives my officials and myself an opportunity to discuss our programs and policies with this committee, in frankness and in detail. I know that we in the ministry will continue to benefit from the points raised and the advice given by members of this committee.

Mr. Chairman, the year under discussion in this committee has been, I think, quite productive and certainly challenging, and the year ahead promises more progress, and hopefully more innovation.

We have seen the Family Law Reform Act and the related statutes take full effect in the legal process of this province. In the coming year we will see the impact of another far-reaching reform, the Provincial Offences Act.

A new tariff structure and administrative efficiencies have been designed for the Ontario Legal Aid Plan, which is now into its second decade and has provided assistance to three million Ontarians. In doing so it has strengthened the legal rights and protections of all Ontario residents.

One of the Attorney General's traditional responsibilities has been to protect and strengthen civil rights. In this regard, we have taken a very strong interest in human rights and in race relations. We are, of course, deeply involved in the issue of children's rights and the new program for separate legal representation of children, both of which I will be discussing in more deail later.

A major aim behind these and other initiatives has been to make the law and the administration of justice more accessible and convenient for the public it is designed to serve. This commitment is reflected in a number of efforts; including, I might like to say at the outset, our continued expansion of court services in the Franch language.

Public interest in the law generally and the services that the ministry provides is reflected in the fact that our communications branch last year distributed almost a million publications, usually in response to direct requests from citizens. This included booklets and pamphlets on family law reform and small claims courts, as well as discussion papers on the Provincial Offences Act and occupiers' liability and trespass to property, in which the ministry has sought the widest possible involvement of individuals and organizations in the formation of our policies.

Mr. Chairman, I would like now to deal with several topics in more detailed form.

Firstly, family law reform: You will recall, of course, that this legislative package was the result of more than a decade of public discussion, and in my view took effect much the better for all of that discussion on March 31, 1978. These reforms, like all new legislation, are subject to a period of testing in the courts to see how the provisions are interpreted and applied. The decisions of the courts are of particular significance in this regard, because the legislation directly affects every man, woman and child in Ontario and many sections confer a substantial amount of discretion on the courts.

When these reforms were before the Legislature for debate considerable concern was expressed over the amount of discretion given in the legislation and the manner in which that discretion would be exercised by the courts. This was voiced particularly in the context of concern that the discretion might be exercised to limit the sharing of assets by hoursewives.

As part of the continuing review of legislation administered by the ministry, we have been reviewing all written decisions in which new points of interpretation or application of the legislation have been raised. I have available a report of this review which covers cases reported up to July 1, 1979, which I would be pleased to share with you. I assume that copies are available.

Mr. Chairman: They have been passed out?

Hon. Mr. McMurtry: Yes, they have been distributed I understand, Mr. Chairman; and there are some more copies here.

The conclusions of the report indicate that the courts are, in fact, deciding cases, if I might say so with respect, as we in the Legislature intended them to do. The report concludes: "The ministry's monitoring of court cases decided under the Family Law Reform Act shows that the act appears to be operating in accordance with the intentions of the Legislature. It has made the economic assumptions of marriage and marriage-like relationships correspond more with the concept of a partnership of equals, each with his or her own responsibilities and rights. The matrimonial property rules give financial recognition to the non-economic contributions of the homemaker, as well as providing compensation for specific contributions by one spouse to the building up of a business owned by the other.

"At the same time, support orders have been made on an evaluation of economic factors without regard to matrimonial misconduct, which is more likely to be a symptom of marriage breakdown than the actual cause of it."

Mr. Chairman: The page wanted to know which one of us, you or I, was the Attorney General. I said, "This gentlemen is, at least until after the next election."

Hon. Mr. McMurtry: I will try to carry on in an orderly fashion despite that highly provocative comment of our distinguished chairman.

Mr. Chairman: Since I have been confused with Michael Cassidy and now with the Attorney General, I only hope then that somebody will not put my name under—or rather Ed Ziemba's name under my picture in the next edition of the Star tomorrow.

Mrs. Campbell: You have had a bad run of luck.

Hon. Mr. McMurtry: To continue: "However, support orders are now made with an awareness of the obligation of both spouses to take measures to become self-supporting where reasonably possible. This results in orders that are of limited duration or that are reduced over time in many cases."

Mr. Chairman, I want to assure members of this committee that we will continue to study court decisions on this legislation to see whether any fine tuning of the machinery is required as we gain more experience with it.

In the past year I have maintained active involvement with issues of human rights and race relations, which I referred to a moment ago, which of course remain for all of us vitally important concerns. I need hardly remind the members that one of the great, and indeed cherished, responsibilities of the office of the Attorney General is the responsibility for the guardianship of civil rights and fundamental freedoms. One of my officials works closely with the Ontario Human Rights Commission to ensure that their concerns about the protection of human rights in the administration of justice are given immediate attention. As well through this relationship, which involves attendance at all commission meetings as well as regular contact on specific cases and issues, I ensure that my constitutional responsibilities mesh smoothly with the statutory mandate of the commission.

My ministry has also been strongly involved with the Ministry of Labour in the development of a legislative response to Life Together and has provided counsel to the commission in a number of important boards of inquiry appointed pursuant to the human rights code.

The work of the human rights commission and the enhancement of its effectiveness and stature in the community are matters to which I am, of course, very intensely devoted.

In another related sphere, senior officials of my ministry have from its inception been members of the liaison group on law enforcement and race relations. This group is composed of senior officials from the Metropolitan Toronto police force and representatives from a number of volunteer community groups, other agencies and government. In the partnership between the police and the community, the liaison group recommends policies and engages in activities which will enhance relations between law enforcement agencies and visible minorities at all levels.

Although there are a variety of important police community issues which require attention, the liaison group, by focusing on visible minorities, has chosen to concern itself with perhaps the most demanding of these. Notwithstanding significant and successful initiatives on the part of the Metropolitan Toronto police, a good deal of suspicion, perhaps more pervasively misunderstanding, exists between the force and many members of our visible minority communities. To come to grips with this the liaison group has established four pilot committees in various parts of Metropolitan Toronto. Composed of community members and local police officials, these committees meet regularly to promote the kind of information sharing and trust creation which are essential to effective and respected policing.

All these local committees have had not an easy birth. While structural problems remain to be sorted out it is clear this concept is one which simply has to be made to work, for only at the local level can police-minority relations be established on a firm foundation. Only by getting to know each other's concerns, needs and obligations can the police and our visible minorities learn to live and work together. Accordingly, the Ministry of the Attorney General together with the Ministry of the Solicitor General have agreed to continue to provide funds to permit the hiring of staff support for these community-based volunteer committees.

[4:15]

Significant improvements have recently begun to accrue as a result of limited funding made available last year by the Ministry of the Solicitor General and the federal Solicitor General to hire a co-ordinator for the project. My representatives on the liaison group will continue to lend their advice and efforts to this vital project, which represents one of the best long-term prospects for the amelioration of existing race relations problems in Metropolitan Toronto.

Another initiative of my ministry in this regard has been the establishment of the telephone advice service for the victims of what are believed to be racially motivated criminal offences. Inaugurated last January, this service permits the victims of such offences to speak directly to crown law officers in my ministry to discuss their legal rights and remedies. Essentially, counsel and my ministry will explain applicable criminal laws and procedures of the caller. If the caller wishes to pursue the matter by initiating criminal charges we will arrange an appointment with the justice of the peace. The fact that the process has been explained and an appointment arranged significantly lessens the unfamiliarity and the anonymity of the judicial process. If the justice of the peace decides to commence criminal proceedings by issue and process, counsel and my ministry will further arrange an interview between the caller and the local crown attorney. At this interview the local crown attorney will decide whether the crown ought to intervene to conduct the prosecution.

In these ways my ministry is taking an active role in confronting and attempting to ameliorate and ultimately solve some of the pressing race relations and human rights issues that we face.

In the International Year of the Child, the ministry has assumed one of the most vital, difficult responsibilities for children, namely representing their legal interests in child protection proceedings. As observers of this ministry will know, for a number of years the official guardian has played a leading and innovative role in providing independent legal representation for children in child welfare and custody cases. This is a role that has been recognized and welcomed by both the judiciary and the legal profession in general. In many cases the lawyers for the parents in a custody dispute have been thankful that the official guardian has been available to represent the independent interests of the children when they conflict with the positions being taken by the adult parties. As a result the demands placed upon the official guardian's office have been increasingly great each year.

Until this year the initiatives for separate legal representation came from outside the context of specific legislation recognizing the child's need to have his or her own lawyer. In most cases the courts are responding to needs in individual cases by turning to the

one officer of the court whom they saw as most appropriate for providing this essential service. Now the Ministry of Consumer and Social Services in its Child Welfare Act 1978 gives specific recognition to the child's interest, and independent legal representation permits the court to direct separate legal representation for a child in child protection proceedings.

However, this has given rise to the further question of who should bear primary responsibility for providing these legal services to children. In my view the challenge of providing legal representation for children must meet two fundamental objectives: expertise and accountability. Because most children will lack both the financial capacity and the intellectual maturity to choose their own lawyers, it becomes a public responsibility to ensure that lawyers who will be representing children not only have the special legal skills and personal sensitivity essential to protecting the interests of children, but also operate within a framework that offers a greater degree of public accountability than would exist if the child were simply left to his own resources in dealing with his or her lawyer. Accordingly, we have been faced with the most difficult task of devising a program that will meet the requirements of expertise, independence of the legal profession and a higher degree of public accountability.

I am pleased and confident that we have, in fact, created a program that will meet these needs. This project is extremely fortunate to have a dedicated committee of distinguished experts in family law and child welfare. This committee, known as the Attorney General's advisory committee on representation of children, was formed almost three years ago and chaired by Dr. Derek Mendes da Costa, who at the time he first assumed the responsibilities, I think, was on the faculty of the University of Toronto law school, and is now, of course the chairman of the Ottawa Law Reform Commission; although I am not quite sure of the chronology of that.

In any event, the committee recommended that the office of the official guardian be charged with the responsibility for administering the program of child representation under the new Child Welfare Act, the program to consist of panels of lawyers trained by the official guardian's office and available in each judicial district to provide legal representation when it is directed under the legislation.

This committee, I should also state, was made up broadly of those in the community with special interests and expertise in the area of child protection. They concluded, and I agree, that the official guardian's office offers the advantage of familiarity with child protection issues, a high level of accumulated experience, a centralized administrative organization, the potential for a central resource development program and wide public confidence.

At present the development program is well under way. A director of child representation and a legal staff have been appointed and training sessions are being conducted for panel lawyers at several centres across the province. We expect that the Child Welfare Act provision will be proclaimed at the end of the year when the program is fully operational.

While expressing my confidence and strong faith in the program we have developed, I do not underestimate the difficulties that lie ahead. Although there is universal recognition that children should have separate legal representation, there is no consensus in legal circles about how it should be done. Issues such as the role of the lawyer are far from settled. Should he proceed according to his judgement of the child's best interests; or should he simply serve as an advocate for the child's wishes? At what age can the child give meaningful instructions to his lawyer?

In my view, one of the greatest advantages of the approach we have adopted is that through the experience of the panel lawyers over time, the official guardian's office will be able to organize and develop comprehensive policy and guidelines. When there is still so much to be learned about the methods of legal representation of children, it would be unfortunate if we were compelled to legislate answers before we thoroughly understood the problems. It is my sincere belief that to approach the program with too many preconceived notions about the right way to represent children will only stand in the way of real justice for children.

In addition to these reforms to promote children's rights, we have also been devoting considerable attention to the increasing problem of child abduction by a parent. In the heat of family disputes, parents are tempted to snatch their children and take them out of the jurisdiction. We have been working with the other provinces to improve the Uniform Extra-Provincial Enforcement of Custody Orders Act. In the next month I hope to introduce a bill to make this uniform act applicable in Ontario.

Of course the abduction of children is not simply an interprovincial problem, it is also

an international problem of some magnitude. Effective solutions on the international plane can therefore only come about as a result of international co-operation. The Hague conference on private and international law has recently, at Canada's prompting, placed the subject of legal kidnapping on its agenda. A special commission on international child abduction by one parent met at The Hague last March. Significant progress was made at the March meeting, and accordingly plans were made to work towards a draft convention at a special meeting which will start this coming Monday. Deputy Attorney General Allan Leal, on my left, is leading the Canadian delegation to this special commission and will also serve as vice-chairman. The deputy therefore will be unable to be with us after tomorrow for our consideration of these estimates during the next three weeks.

I personally regard the work of The Hague conference as vitally important in tackling a difficult human and legal problem.

Mr. Chairman, I would like to turn now to the Provincial Offences Act. As you know, this legislation was passed last spring and it is my hope that part I of it will be proclaimed to take effect on March 31, 1980. Officials of the ministry are now working with police departments and the courts educating those who will play a role in the enforcement and administration of the new provisions.

As members know this legislation, like the family law reforms, has made public impact in that it substantially improves established procedures for dealing with about two million offences annually under provincial statutes, the largest number, approximately 1.6 million, being violations of the Highway Traffic Act.

While this legislation has a number of advantages to the administrative system and to taxpayers by making the process more efficient and effective, it also provides persons charged with offences with important new procedures to exercise their rights to dispute the charges in a more convenient and accessible form. As such, it is in keeping with the ministry's broad aim, which I outlined earlier. As part of that aim, we are designing a full-scale education program to make certain the public becomes aware of the new procedures next year and are in an informed position to exercise the new rights and privileges.

I want now to spend a few minutes discussing our court staff and facilities and improvements we have made and are planning. This is an area of concern to me, and I know to many members of the Legislature.

I think it is important to remember that it is only a little over a decade ago that the province took over facilities from the municipalities. Unfortunately, these facilities were in too many areas inadequate and often the subject of sharp criticism from the bench, the province and the public. I suspect, Mr. Chairman, that in many areas the province, while knowing that it would be probably several years before it indeed happened but that these facilities were going to become a provincial responsibility not too far down the road, didn't allocate too much in the way of resources during the last several years of their local mandate.

In any event, the ministry was faced with upgrading these unsatisfactory facilities. At the same time, caseloads began rising dramatically and, as in more recent year, the necessary restraint on government spending made our task even more difficult. I have often said, and I repeat, that the administration of justice has too long received insufficient priority in the allocation of the available resources; but at the same time, to be fair, particularly to my colleagues with other more personal priorities, I have to state we have made some progress, both in terms of staff and facilities.

A new courthouse is under construction in Newmarket and scheduled for completion in the spring. We are now considering making the northern portion of the judicial district of York a separate district to provide more accessible services for the people in that part of the district.

When I took office four years ago, I quickly of course came to regard the judicial district of York as a top priority area for improvements, partly because of the concentration of people it serves, particularly through the provincial court, criminal division. The burden of that court is particularly heavy in York because more than 50 per cent of the criminal caseload in the entire province is heard in this court.

When I became Attorney General in 1975, there were 28 provincial court judges in York. There are now 49, an increase of almost 50 per cent. I expect to be making additional appointments before the end of the year.

In the area of accommodation, we have provided 39 new courtrooms in Metropolitan Toronto in the past two years; including 11 in Etobicoke, nine in Scarborough, nine in North York and 10 in the College Park complex. Since 1977 we have more than doubled the number of courtrooms to better serve the people of this area, and when the Newmarket

facility opens we will have an additional 14 courtrooms.

In the small claims courts, we are experimenting with evening sessions and have increased the number of full-time judges of this court in Metropolitan Toronto from one to six. We have also appointed full-time small claims court judges in Ottawa and Hamilton.

In addition, we are moving forward with plans to create a provincial court, civil division, with the staff and facilities of a small claims court. This will involve a further extension of jurisdiction on claims up to $3,000. As you know, it will operate initially as a pilot project in Metropolitan Toronto and we will assess the results with a view to extending it elsewhere.

I referred earlier to my concern about the funding available for the administration of justice. While funding restraints pose challenges for the ministry, it is worthwhile to note in passing the increase in our budget for the past four years. In 1975-76, the budget was $95 million. This year it is $148 million, representing an increase of about 54 per cent; and I think it represents also an indication of the higher priority that has been assigned to the administration of justice.

Mr. Chairman, I want to turn now, briefly, to the question of organized crime. In the past year the ministry has continued to prosecute an increasing number of offences which form a pattern of criminal activity which is planned and organized by persons acting in concert. As a result of a tri-force approach to police investigation into this type of activity, charges have been laid against approximately 250 persons involved in organized criminal activities in the past two years. Among the charges are several involving complex conspiracies; others involve loansharking, extortion, counterfeiting, gambling, burglary, theft, forgery, fraud and other criminal rackets. Counsel in the ministry are consulted by and advise members of the task force at regular intervals in the course of every major investigation.

[4:30]

In addition, the ministry has continued to prosecute an increasing number of complicated commercial transactions involving allegations of fraud, corruption and conspiracy. These prosecutions are complex and take a large amount of preparation, and trial time particularly; as noted, of course, by the dredging trial which concluded successfully, at least at this stage so far as the crown is concerned, after many months of trial.

Liaison with the fraud squad of the Metropolitan Toronto police, the Ontario Provincial Police and the Royal Canadian Mounted Police is an important feature of our activities in order to provide the specialized prosecutorial assistance needed, not only at a trial level but also from the outset of the investigation in most cases.

The Ontario Securities Commission is referring an increasing number of complex investigations involving stock market frauds and manipulations. Consumer protection legislation has also added to our workload with special prosecutions under these statutes.

I want to spend a moment at ths point discussing my ministry's relationship with the police, particularly the RCMP, a topic which has received considerable attention in the press in the past few months. I want to emphasize that we continue to enjoy a close working relationship with the RCMP commanding and senior officers in this province. There has been a full and frank exchange of information on matters within my jurisdiction as Attorney General.

The problems that have arisen have been at the political level, with the previous federal government refusing to share with me information on allegations of police wrongdoing in Ontario. I am pleased to report to you that the new government, through our former colleague the Honourable Allan Lawrence, the Solicitor General, has changed that policy, at my request, and has now agreed to provide my ministry with relevant evidence from the McDonald commission.

I wish now to say a word about the crown law officers who make up both the crown attorneys system and the crown law office, criminal, within my ministry.

Before I assumed the office of Attorney General, I was well aware of the high calibre of the crown law officers who so ably served the public. In my view this tradition has been carried forward by those who have joined the ministry during the last few years. I can confidently say that the public has never been better served by such individuals and the public has been the sole benefactor of this combination of experience, dedication and energy. As an eminent jurist once said, speaking of the role of crown counsel, "Their function is a matter of public duty in which in civil life there can be none charged with a greater personal responsibility."

As Attorney General, I can say that I take some pride in the fact that this ministry has managed to attract and maintain a substantial body of crown counsel who did in fact perform their responsibilities according to the highest traditions of the crown. I know that many of you are aware of the vast number of cases that these men and women

handle each year, and many of my colleagues from time to time have marvelled at the fact that the opportunity for criticism arises so infrequently, having regard to the vast number of prosecutions undertaken each year.

You are all aware of the increased demands placed on crown counsel by virtue of an ever-expanding work load, but as well I point out the fact that many complex prosecutions today require diligence and dedication never anticipated in earlier days. The role of the Attorney General's agent in the preservation of the rule of law is both a restraining one and an exemplifying one, with corresponding obligations to the public as a whole and to the accused before the court. There is no doubt that public confidence in the administration of justice in part depends on vigorous and diligent prosecutions, but it equally demands that there be no deviation from fairness. I feel confident that my agents throughout the province fulfil both of these criteria and that the public of Ontario can be very proud of these individuals and the contribution made by them towards a fair and impartial system of justice.

Most of you are aware of the progress made by the ministry in French-language court services. I committed my ministry in the fall of 1975 to providing this service, and you will recall it was started the following year in Sudbury in the provincial court, criminal division. It was subsequently expanded throughout most of eastern and northeastern Ontario, and to the provincial court, family division. The first bilingual trial in the Supreme Court of Ontario is currently being held in Ottawa.

Beginning December 31, any person charged under the Criminal Code of Canada will have the right to be heard by a bilingual judge and bilingual jurors in trials with a jury. There is also provision to permit the transfer of cases to areas of Ontario where bilingual jurors are available. This latest expansion of the service is made possible by an amendment to the code which was introduced by the federal government in 1978, at my personal request.

I think members of the committee acknowledge that we have made enormous progress in this regard and the fact that this program has worked so smoothly is to the credit of the ministry officials, the bench, crown attorneys, the private bar and the police. Without exception, there has been a desire and commitment on the part of all those involved in the administration of justice in this regard to this important new service. The success of our efforts has been recognized by ACFO, L'Association Canadienne Française de l'Ontario, at their recent convention in Sudbury when it passed a resolution which reflected its appreciation for the efforts of my ministry in relation to this program and acknowledged the outstanding progress we had made in this regard.

In the past year the ministry has worked closely with the Law Society of Upper Canada in the realignment and revitalization of the Ontario Legal Aid Plan. I would like to spend several minutes discussing some of the aspects of this relationship, particularly those developments during the past year. We remain deeply committed to the plan, which by ensuring that poverty is not a bar to the exercise of fundamental legal rights and freedoms is a vital component in our continuous efforts to strengthen the rule of law.

In the area of criminal legal aid, senior officials of my minstry have been meeting almost every week for the past 11 months with senior legal aid and law society officials. Serving as a joint committee, these officials have been designing and implementing a number of new projects recommended in a background paper prepared last year for my ministry and the law society.

These projects include the establishment of a centralized research bank for legal aid lawyers across the province. Since its inception in 1967, the plan has been paying lawyers to conduct necessary legal research, but has not collected the results of this work. As a result, it is inevitable that some legal points have been researched countless times. The research bank will eliminate this wasteful duplication, and will also establish in one central location a source of current and comprehensive research on virtually every criminal law issue. Not only will there be substantial savings in research time, but as well the administration of justice will benefit from defence counsel being thoroughly and accurately prepared on the legal issues at an early stage in the proceedings. It is reasonable to anticipate that criminal proceedings will be shortened if the legal positions open to the defence are clarified at an early stage.

A director for the research bank commenced work in July. Three lawyers have commenced work as legal researchers and are developing the research bank. It is anticipated that the bank will inaugurate a part of its ultimate service potential early in the new year and continue to expand thereafter. Already there have been expressions of interest in the research bank from legal aid plans across the country. The pos-

sibility of gaining significant revenues from sales to them is a very real one. Additionally, we anticipate that there may well be a strong market for the bank's resources among lawyers acting for private clients. Expansion beyond criminal law is also anticipated at an appropriate time.

Another major initiative of the joint committee involves the restructuring of the criminal legal aid panel in York county on a pilot project basis. Until recently any lawyer in the area who wished to put his or her name on the criminal panel could do so, regardless of ability, experience or even interest in criminal law. As a result, legal aid clients who did not have a lawyer were asked to choose one from an undifferentiated list of nearly 1,500 names in the judicial district of York. Under the new system, which comes into effect on November 5, two significant innovations will occur.

First, a minimum standard for entry to the panel has been established, relying upon a completely objective point system. Under this system, lawyers may achieve points for various kinds of courtroom experience and related activities, as well as for improving their knowledge of the law by attending courses or publishing articles. Sufficient points to gain entry to the panel can be achieved by designating criminal law as a preferred area of practice under a system established by the law society. Such a designation requires an undertaking to attend special courses, thus indicating a real interest in criminal law.

The second innovation involves the designation of certain members of the York criminal legal aid panel as particularly qualified to handle serious criminal cases. This designation is open to any lawyer who can achieve 100 points on the new objective point system. Legal aid clients who are charged with a serious criminal offence, and who do not have a lawyer, will be shown a copy of the legal aid panel on which certain lawyers will be marked with an asterisk.

In keeping with the fundamental premises of the legal aid plan, the client will be free to choose any lawyer, regardless of designation; however, for the first time that choice will truly be an informed one. We expect that if clients select senior counsel for serious criminal cases they will be assured of more than competent representation, and the legal aid plan will garner the savings which accrue from the efficiency of experienced counsel.

Yet another joint committee project is aimed at honing the skills of junior members of the bar by pairing them with more senior criminal counsel. This will complement the point system, which itself encourages young lawyers to work with their seniors and to take professional development courses. Under the pairing system a number of senior counsel will agree to be available on a regular basis to four or five junior members of the criminal bar. This availability will include consultations—without fee, we expect—on individual cases, general advice, tactical assistance, and in some cases actual junioring at trial. Through this system we expect to significantly enhance the average level of skill of panel members. This not only will provide a more effective defence, but, as indicated, will reduce the overall cost of legal aid by minimizing the inefficiency which inevitably accompanies inexperience.

Another innovation, still in the planning stage, will put salaried investigators and social workers at the disposal of legal aid lawyers in criminal cases. Although investigators can be retained by lawyers under the existing plan, the delays in the application process, together with the absence of a body of skilled criminal investigators prepared to work at the legal aid tariff, has discouraged lawyers from utilizing this option. Thus at the present time many criminal lawyers conduct their own investigative procedures, including, for example, visits to the scene and interviews with prospective witnesses. As well, conscientious counsel devote a considerable amount of time to exploring non-custodial sentencing alternatives for their clients.

It is apparent that these activities are important; and in terms of the administration of justice cost-effective aspects of the proper representation of a person charged with a criminal offence. It is also apparent that this work could be done much better, more efficiently, and at a lower unit rate, by trained, salaried experts in the particular field. Accordingly, a group of Chicago consultants with extensive experience and expertise in the use of investigators and social workers by criminal counsel has been retained to develop a feasibility and implementation study on this aspect of the project. The joint committee anticipates receiving the final report of these consultants in the near future.

In addition to being intensely involved with these projects, the joint committee also spent a great deal of time last winter working out the details of a new tariff regulation. You will recall that on April 1, 1979 the legal aid tariff was increased for the first time in six years. The 20 per cent increase, less than four per cent a year over the last six years, was intended to halt the flight from legal aid which appeared to be occurring; but the

increase was anything but a simple augmentation of the existing tariff. In requesting an increase, the law society brought forward a number of thoughtful proposals for increasing the efficiency of each legal aid dollar and for improving administrative controls on expenditures. With the additional refinements designed by the joint committee, these proposals have been implemented in the new tariff regulation.

Under that regulation, lawyers conducting legal aid litigation will be paid at one of three levels, depending upon their actual litigation experience. This province-wide system is distinct from the York county panel classification pilot project, which is not concerned with renumeration.

[4:15]

It is anticipated that offering additional remuneration to the more experienced members of the bar will make participation in legal aid sufficiently attractive to keep them in the plan. Additionally, the new criminal tariff has eliminated the old system of paying lawyers more if a case were heard in a higher court. Instead, and much more appropriately, the tariff varies with the gravity of the offence. This makes the legal aid plan consistent with private billings, and removes any incentive there may have been to elect more costly county or supreme court trials to gain the higher tariff.

Further, the tariff has tightened the limits on out-of-court preparation in criminal cases, and for the first time has imposed such controls in civil matters. This will increase administrative control on the cost of the plan; because the allowable amounts vary according to the seriousness and perceived complexity of the matter, lawyers are also given an indication in advance of the time they ought to expend. Of course these control limits will be reviewed in light of actual experience with the tariff. That review will be facilitated by a significantly more sophisticated system for gathering and storing information on legal aid accounts. Account examiners are now recording a wide variety of information on each account, which when entered into the computer provides the base for detailed information on the working of the plan. This information, not previously available, will be of great assistance in determining the future structure of the tariff.

In another area of legal aid, this last year saw the reorganization and improvement of the regulation under which community clinics are funded. A vital part of the legal aid plan, these clinics have only recently received the kind of stable funding base under the plan which permits them to concentrate their considerable energies on client service rather than fund raising. This year's organization was based upon a report submitted by the Honourable Mr. Justice Grange of the Supreme Court of Ontario. A model of insight, conciseness, humanity and great wisdom, this report reaffirmed the status of community clinics and proposed a series of mechanisms to ensure their continued success as well as to ensure appropriate levels of accountability. These recommendations formed the basis of the new clinic funding regulation which was put into force this spring.

In all of these ways, the provision of legal aid services has been made more effective, more efficient and more amenable to realistic financial accountability mechanisms. I remain completely committed to the concept of an organized legal aid plan and will continue to strongly support the Ontario Legal Aid Plan across this province. I believe that the improvements of the past year have restored that plan to the high status it originally enjoyed, and have significantly improved its great capacity to meaningfully support the fundamental premises upon which our way of life is based.

A considerable portion of my time and the time of my advisers has been occupied in the past year with matters regarding the constitution. Aside from court actions with constitutional implications, the round of talks on constitutional reform is continuing at the ministerial and official levels.

We have, at times, been tantalizingly close to major reform. I believe that we should try to reach agreement on several items as soon as possible, if only as an indication to the people of Quebec, as the referendum nears, that progress is in fact possible; but we must not forget that at least until the referendum ballots are counted and analysed it is not in the political interest of the present government of Quebec to see or at least acknowledge any progress at all.

We in the Ontario government believe that in a country as regionally diverse as Canada, building the future must be based on working out joint solutions, not on destroying the common interest that exists between the regions. We believe that our system of federalism is flexible and adaptable, and can meet reasonable demands from the various regions of the country, while at the same time leaving the federal government with sufficient authority to protect and enhance Canada's interests in the world and our common interests at home.

We sympathize with many of the concerns expressed by Quebeckers and we can be sup-

portive of the suggestions put forward by its representatives as offering the possibility of a new kind of relationship while remaining within the country. Sovereignty-association may have been offered up in good faith, but simply speaking it is less of an answer than Quebeckers are truly capable of, and less of an answer than all of us as Canadians can achieve together.

In conclusion, Mr. Chairman, I want to speak for a moment about the role of the opposition in relation to the administration of justice, and particularly about the role of the justice critics. Because the jurisdiction of the Attorney General is so wide and involves such a substantial degree of power and responsibility with respect to individual rights and the guardianship of the administration of justice, it is essential that the exercise of an Attorney General's functions be free not only from abuse, but also free from the slightest public perception of any possible abuse. The opposition justice critics, in their capacity as diligent, informed and vigorous critics, thus constitute an enormous protection to the integrity of the office of the Attorney General.

The responsibility of a justice critic is very similar to the responsibility of an Attorney General in the sense that the duties of the functions must be discharged in pursuit of the better administration of justice and better public understanding of the administration of justice. The duties of an opposition critic, or of any opposition member in dealing with matters relating to the office of Attorney General, in my respectful submission should never be exercised in pursuit of partisan political advantage. To that extent the role of the Attorney General and opposition justice critic have a strong common identity in terms of the integrity of the function which each of us perform without question of party.

The late Lester B. Pearson had some interesting observations on the role of the opposition when he happened to be in that position. He said that, "the insecurity of the government becomes the opportunity of the opposition to replace it with new, and of course better, government. So we oppose, correct and criticize. In doing so we cleanse and purify those in office. We are, in fact, the detergents of democracy!"

I must say I have never thought of—

Mr. Renwick: Good God, I have ring around the collar.

Hon. Mr. McMurtry: I must say I've never thought of my critics as soap suds, despite the fact that some of you may adopt an attitude of a commercial cleaner-than-clean and ninety-nine-and-forty-four-one-hundredths per-cent pure.

Mr. Pearson went on to say, and in conclusion I commend this passage to you: "While vigour in opposition is desirable, criticism should always be tempered with responsibility. A purely negative, obstructive opposition would be condemned to remain in opposition for a long time. There is also a difference to be observed between vigour and violence. The good opposition leader in a good democracy doesn't go around looking for belts so he may hit below them, or looking for parades merely so that he may head them; he will certainly fail if he insists on no bread because he doesn't like half a loaf."

This of course is offered, Mr. Chairman, with the greatest respect to the members of the committee. Thank you very much for this opportunity to make an opening statement.

Mr. Chairman: Thank you, Mr. Attorney General. I am sure the two opposition critics will be responding very vigorously to your opening statement, and will no doubt address themselves also, judging from the appearances on their faces and non-verbal communication, to some of the last points that you made.

Mrs. Campbell: Thank you very much, Mr. Chairman. In opening I would like, I suppose, to continue the discussion which the Attorney General opened in the latter part of his address to us.

The whole basis of our democracy is built upon a bulwark of a strong and unassailable justice system. If you analyse events in most countries which have lost their democracy, this happened largely as a result of insidious but widespread changes in the people's perception of justice. Once confidence in the justice system begins to erode, democracy itself is threatened and eventually lost. In the last 20 years how many countries which were once proud democracies have fallen by the wayside because the people living in those countries failed to realize what was happening until it was too late.

A country's system of justice is the proof positive of its democracy. If we have a justice system which is truly just, then we have a real democracy. If we have a justice system which is weak and inequitable in any way, any way at all, then we do not have a democracy which is worthy of the name; we have instead a so-called democracy which is little more than a façade for the philosophy that might is right, that influence of one kind or another is the coin of the realm. To quote: "In the constitution of the rational animal I see no virtue which is opposed to justice." These are the words of Marcus Aurelius, the

great philosopher who lived in the second century AD, upon whose teachings are based the principles underlying much which is democratic in our society.

To me, justice is an absolute. It is by its very nature indivisible. One cannot speak of more equal justice or better justice or less justice. Either it exists or it does not. The absence of justice, the dilution or weakening of justice, is the other absolute, injustice. Justice, law and order, in this relative sense of today, these are the foundations of a democratic society. I do not care to see them twisted out of focus; I cannot stand quietly by and watch this happen without raising my voice in protest.

There are days, dreadful days, when I am forced to the belief that here in Canada genuine justice is a very rare commodity indeed. Let's pause for a moment and ask ourselves some very direct and basic questions. Do we really live in a democracy? Can we sincerely affirm that every Canadian, every Ontarian, is treated in a fair, equitable and just manner? Of course in any question involving justice the role of the Attorney General is paramount, therefore we must consider that officer's role under our British system of jurisprudence.

An address made by Sir Hartley Shawcross to the law society in 1953 is still considered to be one of the definitive analyses of the office of the Attorney General. Much of what he said is very pertinent to the role of the Attorney General in Ontario today, and I should like to quote from his remarks.

The Attorney General should be looked upon, and I quote, "not as the oppressor but to some extent the protector of the public."

A further quote reads, "the independence and detachment of his office, the independence which is necessary to a proper discharge of his office, should not be blurred by his inclusion in the political body, the cabinet."

Can Ontario's Attorney General honestly affirm that he has always acted as the protector of the public regardless of political loyalties? If called to account, can he answer with Shawcross that in handing down decisions, "there is only one consideration which is altogether excluded and that is the repercussion of a given decision upon my personal or my party's or the government's political fortunes: that is a consideration which never enters into account."

Sir Hartley quoted another celebrated British Attorney General, Lord Simon, when he said the chief law officer, "should absolutely decline to receive orders from the prime minister or cabinet, or anybody else, that he shall prosecute . . . [or] . . . that he should not prosecute." Has Ontario's Attorney General borne this basic and inviolable principle in mind at all times?

Shawcross stressed the absolute importance of the Attorney General's role in protecting the public interest generally; I quote: "That aspect of his duties had a very early origin." He cited an instance where there had been allegations of corruption against certain members of the government. Many people had argued, and for very understandable reasons, that the Attorney General should not appear. Nevertheless, and I quote: "I felt myself that that was wrong and that it was of the utmost importance from the public point of view to maintain the position that it was the duty, however personally unpleasant, of His Majesty's Attorney General to represent the public interest with complete objectivity and detachment . . . I emphasize in these matters that he needs to be wholly detached, wholly independent, and to accept the implications of an obligation to protect what he conceives to be the public interest whatever the political results may be."

[5:00]

Where was our Attorney General's objectivity and independence when we so desperately needed it? The analysis of Sir Hartley Shawcross was reiterated almost completely in 1969 by the then Attorney General, Sir Elwyn-Jones, who added, "The basic requirement of our constitution is that however much of a political animal he may be when he is dealing with political matters, he must not allow political considerations to affect his actions in those matters in which he has to act in an impartial and even quasi-judicial way."

How will history judge the present Attorney General of Ontario; as a political animal or as a person of integrity and independence rising above party considerations?

There are those in the legal profession who have become concerned about what they perceive to be the changed circumstances with respect to crown attorneys. Over the last 20 years they believe their essential independence has been steadily eroded, that they have become increasingly subject to centralized political control. If justice is to be preserved, our crown attorneys must be free of political influence just as the Attorney General must be free of political influence. At the same time, they must be accountable, just as he must ultimately be accountable for the justice system, accountable to the people. They cannot escape accountability, neither can he.

Of course as the chief law officer of this province, the Attorney General has the ultimate responsibility. That is precisely why his absolute and unalterable objectivity is so vital. That is why he must at all times, demonstrate a strength of purpose which makes it plain beyond any shadow of a doubt that he is not in any way, and cannot in any way, be influenced by partisan considerations.

In addition to being the chief law officer, the Attorney General is an officer of the public. Individuals have the right to look to him for the protection of their rights. It is for him to enforce criminal law, to provide adequate protection of the innocent and just punishment of the guilty, to guard the public against laws which may give excessive or oppressive powers to tribunals, bodies or individuals.

The Attorney General is also responsible for the public interest of this province. Yet over the past 20 years individuals or groups have been forced to resort to challenging the law of standing in order to establish their right to bring suits with respect to public interest before the courts. Frankly, there is nothing in the conduct of our present Attorney General which leads me to believe that he has any intention of discontinuing the practice of the last 20 years. I have very little hope that he will make any move to undertake his traditional responsibility in respect to matters of public interest.

The Attorney General must either recognize that he is vested with responsibility of acting on behalf of the public interest regardless of political considerations, or he must acknowledge his inherently political status as a member of the cabinet and should therefore abolish the law of standing so that individuals or public interest groups may bring actions in their own names on behalf of the general public.

I am very deeply concerned about the fact that the Attorney General continues to hold the portfolio of Solicitor General also. That the potential control of the police forces and the potential control of the crown attorney, reside in persons who are members of the same cabinet has always been cause for concern, that such potential power at present resides in one and the same person is quite frankly, to me, constitutional heresy.

It is now more than a year since the Attorney General of this province was sworn in as Ontario's Solicitor General. At that time he assured us that should any conflict arise because of his dual responsibility he would publicly state that this was the case and would so advise the Premier (Mr. Davis). For his part, the Premier stated that the Attorney General would probably hold the second portfolio for no more than a few weeks. Challenged on the matter some six weeks later, the Attorney General stated, "I see no basic conflict." However, many informed observers consider there is indeed conflict. The two portfolios have been combined previously and were divided for the very reason that it was considered advisable that an arm's-length relationship be maintained between those who prosecute and those who supply the information on which such prosecutions are based, in other words the police. The Premier himself has stated that on a long-term basis there are many advantages in splitting the two posts.

Our concern is greatly compounded by the fact that our present Attorney General apparently failed to maintain his objectivity with respect to the controversy surrounding the previous encumbent of the Solicitor General's office, his colleague in the cabinet. In his handling of the Kerr matter he failed to meet the criteria concerning his political independence. Historically, traditionally and constitutionally, the Attorney General must exercise a quite unique degree of independence vis-à-vis the cabinet. He is, in truth, responsible to the Queen and not to the government. His duty must transcend government policy; this is a well-established principle which predates Confederation.

Had the Attorney General indeed retained his objectivity in this matter he would have had no other option but to make a very strong and unambiguous statement about the Solicitor General's conduct. Does he not realize that in his very real and sincere attempts to protect a colleague he actually exacerbated the situation? In fact there need never have been the Kerr committee if he had acted as he should have done in the highest traditions of Attorneys General as outlined by Shawcross.

It is absolutely vital that there should be no opportunity for influence to be brought to bear upon anyone involved in the administration of justice, save and except the traditional influence of argument before the court. Because the Attorney General failed, and failed dismally, to exercise his duties in the Kerr matter, he was inhibited from exercising them with respect to the Munro incident. Therefore, instead of taking the facts in the Munro case, bringing them before the Legislature and making a strong statement as he should have done, the information was permitted to be leaked to the

press. His handling of this issue was once again completely reprehensible.

I will touch briefly upon the Ziemba case. Here again I have no wish to pass judgement in the light of the other two incidents; however, I feel the Attorney General owes us an explanation. Was it because he deemed that case no longer to be within the same parameters as the two previous occurrences that he felt free to speak out on this one case and this one alone? In this connection he spoke out unequivocally. Why did he not also make a strong and ringing statement on the behaviour of Mr. Kerr and Mr. Munro?

The failure of the chief law officer to speak out strongly puts the justice system into question, if not into actual jeopardy. Moreover, it increases drastically the possibility of more incidents of this kind in the future.

I recall at the time we were discussing the legislation which gave greater authority to justices of the peace, I expressed my very real concern about the potential dangers of the situation. While I approved the concept of bringing forward a court procedure which would be less formal, I was fearful that it might be allowed to lead to an escalation of the type of incident in which everyone feels free to talk to the judge. Frankly, if it comes right down to it, I would prefer the old-fashioned approach. I refer to the times when I was a student and a judge would simply not get into an elevator with anyone other than his own court officers.

Today we have perhaps gone too far to the other extreme. We have tried to reduce the panoply, the excessive formality, we have tried to put things on a more human plane. This, I think, is something with which we all agree. As a result we have a situation where hundreds of thousands of cases occur where people have really no intention of appearing on a charge. Police officers and other citizens involved do appear but to no avail, because the person whose case is to be tried is not present; and of course on occasion the police officers are not present either. This, of course, leads to considerable public expense and considerable inconvenience to private citizens. Is this kind of thing inevitable as a consequence of our efforts to afford easier access to the courts, while at the same time stating that the fundamental right to a full trial is absolutely preserved?

Next we must consider the Wardle case. I am not asking that this case be reviewed or the inquiry reopened. The specifics of the matter are not for consideration here, my concern is with the Attorney General's role. In my view, His Honour Judge Addison is a highly-experienced judge who, it seems to me from reading the transcript, was filled with a sense of misapprehension and frustration when he uttered those fateful and controversial words, and I quote: "I must say that were it any other person before me for this offence with those facts, the one question that I would want to ask is obvious. I am not going to insist that it be answered. I am not going to ask that anything be told me except that reading between the lines I think that a conditional discharge would be the more proper disposition."

I find nothing improper in the disposition of the matter, and in fact I would commend his honour on his objectivity. Nevertheless, the words as they stand are open to misconstruction, to misinterpretation. The implications are enormous and far-reaching.

Since those words stand, uncontroverted, the only way in which we can indicate to the public at large that these words were words which the Attorney General takes exception to, since he hasn't said that, would be to assume that in all cases where there are similar implications or overtones or undertones, the same delicacy of treatment will be forthcoming, that the same kind of tact and diplomacy be shown by police or crown if and when similar cases occur.

Why does the Attorney General, instead of speaking out clearly to the citizens of this province, whimper in a corner, bleating some nonsense about those of us who question the circumstances being irresponsible? It is the Attorney General himself who is irresponsible; irresponsible and derelict in his duty. Unless all such cases are treated in the same manner I suggest to the Attorney General he will surely reap the whirlwind.

Another matter which gives considerable cause for concern and contributes to my unease about the present Attorney General in his role vis-à-vis the Ombudsman of this province. In July of this year the Attorney General made it abundantly clear that he was, and I quote, "One of those who strongly recommended the selection of the previous individual who became the first Ombudsman"; and he was obviously involved in the selection of the present incumbent.

For my part, I want to make it absolutely clear that I have no wish to quarrel with either selection, nor would I take exception to the Attorney General having a strong voice if he followed the British tradition of Attorneys General; however, I cannot help but be gravely concerned that he should play such a strong role in this matter at the same

time as he is acting in a very limiting and restrictive manner with respect to the Ombudsman's terms of reference.

I would like to cite in this connection the way in which his ministry participated in the matter of a proposed investigation by the Ombudsman of a review and decision made by the Health Disciplines Board, on which the judgement was released on July 31 this year. I may say, in parenthesis, that the Attorney General was very cross with me for my observations on that occasion. I believe he was even more cross with a member of the NDP. I wonder what he has to say about what the court has said about this particular performance.

The judge spelled out the arguments of the policeman and stated, and I quote: "Not only do these approaches, in my view, reflect an unduly narrow view of the statutory language, they are vague and difficult of application."

And again later:

"It appears to me that the general tenor of the appellants' approach, and I say this with the greatest respect—" that very saving clause "—is unnecessarily complex and very difficult of application. This consideration tends to support, in my view, the more straightforward and practical approach to section 1(a) which I think is the correct one."

In this case far too much reliance is placed upon the leadership of Mr. Polika from the Attorney General's office. In my view, the Attorney General should at the very most have held a watching brief rather than actively intervening. He might appropriately have stood in an amicus curiae situation.

There is another underlying important question which we must consider with respect to the Attorney General's role vis-à-vis the Ombudsman. Following the debate of June 21 on the sixth report of the select committee of the Ombudsman, the Attorney General wrote to the chairman of that committee, and in connection with the Workmen's Compensation Board he quoted his opinion of March 15 stating, and I quote: "The recommendations of the committee must be implemented by legislation or by the board itself." He continued, and I quote: "It is my view that a resolution of the Legislature only binds in matters relating to procedures of the House and its committee, and a resolution cannot have any legally binding effect on substantive matters which are outside the purview of parliamentary procedures."

This certainly does not augur well for the future role of the Ombudsman, bearing in mind the machinations which are necessary to process a bill and the singular lack of success with respect to private members' bills in particular. Unless the government decides that the circumstances are very unusual, a comparatively rare occurrence, it takes at least a month to process government legislation; a private member's bill could be blocked by government members in the twinking of an eye.

Let's take a brief look at the record with respect to private members' bills since the 1977 election. As of October 11, 1979 only 15 bills had been passed. None of them have gone past the committee stage. Some 26 bills have been brought, and 10 have been defeated.

The Attorney General has considerable experience in this House; how can he fail to realize that the rules by which we operate were created in the British tradition prior to the establishment of the Ombudsman's office? Yet he has stated that the recommendations of the Ombudsman committee are totally meaningless without government approval. In other words, it is clearly demonstrated that the Ombudsman must, in fact, be legally subjected to the political policies of the party in power.

What faith can we have in the chief law officer of this province, the man who above all others is responsible for justice, when he supports the view that for all practical purposes the party in power should have the power of veto, for that is what it amounts to? In my view, this power of veto has been used irresponsibly in the government's efforts to frustrate and destroy the efforts of those other than the government who have tried to initiate reform. What kind of justice is this? What kind of democracy are we living under?

Then we have the situation with respect to the intervention of a judge on behalf of his son in the court. I find the Attorney General's reluctance to take action in this connection very difficult to understand. This government expressed its concern about the participation of a former judge, specifically a family court judge, in a court procedure after that judge had left the bench. I viewed that matter as one of high principle and I had no quarrel with the government's introduction of legislation precluding such a judge from appearing in the family court as an advocate. Why then does this government and this Attorney General not consider it to be totally unseemly that a sitting court judge would intervene as an advocate, paid or unpaid? Surely it is wrong for a judge to be an advocate in the same court system, whatever the circumstances.

The Attorney General should, as chief law officer, move quickly to preclude such offences in the future, without exception.

I have had expressed to me certain concerns with reference to an inquest in the Lawrence Bulpip case, and I would ask at this time if the Attorney General would be prepared to provide for the critics a transcript of that inquest into this man's death. In essence, in the opinion of those deeply concerned, he was tried in effect after he had died. His reputation was destroyed without an opportunity for defence.

Is it not the ultimate responsibility of the Attorney General to clarify for the benefit of the public the force which is permitted in self defence so that there is some kind of uniformity in conclusions reached? Is it really appropriate that a crown attorney who makes the decision that no charges should be laid should also have the carriage of the inquest? I want to make it clear that I am not suggesting that a charge should have been laid, nor am I suggesting there was fault here; however, there are questions to be asked and there are answers which must be given. Surely the Attorney General cannot be satisfied with the situation? I would find this very hard to believe. Will he not endeavour to provide this House with sufficient information to put our minds at rest on the subject?

Now we come to the question of the civilian police review as enunciated by the Attorney General.

Mr. Leal: The Solicitor General.

Mrs. Campbell: No, sir; it was the Attorney General having overview of a situation.

At the outset, let me make it quite clear I have the utmost confidence in our Metro police force. These officers have a very difficult job to do and they do it, for the most part, superbly. Every day, 24 hours a day, they do in fact serve and protect us. Their courage and dedication to duty are a source of pride to us all.

Recent incidents in Bathurst, New Brunswick, would seem to indicate that in spite of our much flaunted progress, the police may well be the thin blue line between ourselves and anarchy. That police strike once again brought home to us just how close to the surface lurks violence in today's society, and just how avidly some people react to outbreaks of vandalism and lawlessness when an opportunity arises.

I would particularly like to commend the police officers, Brian Peel and William Donaldson, who showed such courage and initiative during the bank holdup and hostage-taking in downtown Toronto. These men also displayed quite remarkable skill and patience, not to mention a depth of human understanding, in their negotiations with the gunman and their discussions with his family. Of course this was a singularly dramatic episode, one we shall long remember. However, for the most part our police officers tend to be unsung heroes, quietly going about in the community doing their duty, and often more than their duty, for the well-being and safety of us all.

Possibly it is precisely because I have such pride and confidence in our police officers that I think it is essential we clarify the somewhat murky situation with respect to people shot by the police in the performance of their duty, and especially with respect to police treatment of minority groups.

The shooting of Albert Johnson, the eighth person to be killed by our police over a 13-month period, was the culmination of many incidents which have aroused the passions of minority groups in Metro. Clearly it has crystallized deep-seated feelings of resentment, suspicion and fear.

The Johnson killing was a tragedy, but you know to me so too were the other seven deaths. What the Attorney General has done here is to indicate a separate and different solution. In doing this, he has virtually negated the general question at issue as it applied to all eight killings. What does he propose to do about these cases? Justice, absolute justice, is essential in every case.

It is difficult to deal in a calm manner with such an emotional issue. Calmness and rationality are essential when we have an explosive situation of this kind. The broader issues must also be dealt with. We cannot continue to ignore that apparent deterioration of relations between the police and visible minorities. There are crucial questions to be answered and time is of the essence.

How are the police trained to deal with racist situations without the use of firearms? This, of course, is within the province of the Solicitor General but leads directly, I think, into the whole question of the role of the Attorney General. Is instruction given with respect to firearms and their use; where they are appropriate and applicable in today's changing conditions in this city? Is racism, including harassment and intimidation, tolerated in certain divisions of Metro's police force?

I was discussing these matters recently with a senior police officer, who reminded me that in earlier days any gunplay was automatically investigated thoroughly. It seems

to me that for the benefit of the police officers themselves, not to mention the general public, there should still be an automatic investigation, particularly when a killing has occurred.

Why did the Attorney General allow such an incredibly long time to elapse before finally yielding to pressure in announcing legislation for a civilian review of complaints regarding Metro police? Certainly it would be irresponsible to attempt to bring in reform in the heat of the moment, but undue delay caused deterioration.

There are members of the criminal bar who have expressed to me their concern that if a person complains to the citizens' complaint bureau and the complaints are considered unjustified, charges of nuisance are initiated. Surely, the Attorney General has responsibility in such cases for the protection of both the police and the public, surely there should be some intervening procedure by which the charge of nuisance can be contested.

[5:30]

Here again we have a situation where problems, tension and resentment are building up in the absence of any definite reform by the Attorney General. The outpouring of emotion in the wake of the Johnson killing was clear testimony to a backlog of frustration, anger and bitterness. In view of the recommendations of three different reviews over the past five years, the Attorney General's delaying tactics are irresponsible an inexcusable.

Ten long years ago I was myself a member of a Metro committee which attempted to set up a civilian review system. That is to say we recommended to the government of the province of the day, at that committee level, the right to set up such a system. This initiative resulted from a large number of complaints by the public of police brutality and harassment.

I personally reviewed each case that was brought to my attention. Quite honestly, I found that a very small number of incidents warranted, in my opinion, further review, and these I referred to the police commission. Their procedure at that time was to review the complaint; however, the complainant never had the opportunity to appear before them, the police officer never had the opportunity to face his accuser. I cannot recall one case in which the commission did not come to the same conclusion as had been reached in the complaint procedure.

I am referring to these matters as they refer to the police because of the reference in the Attorney General's statement to his officers and their relationships with the police. It is obvious from both the Morand and Maloney reports that there were cases of legitimate complaints. If the Attorney General is not aware of this, is he prepared to institute an examination of complaints with a view to establishing whether or not there may be one police officer, or two police officers for example, against whom consistent complaints have occurred? A review of this kind would ensure that an exceptionally fine police force does not have its reputation in any way tarnished by activities of what I believe to be, at most, a handful of officers who should not, perhaps, be police officers. It is in the very real interests of the police, as well as of the public, to weed out such persons if in fact they exist.

We have now had an opportunity to read Cardinal Carter's report. I would like to say I was most impressed with this and with the swift and positive reaction to it. I am not going to labour my remarks on this point since they may more properly come under another ministry, but I felt it was important to deal with these matters because the Attorney General has an overriding responsibility in matters which are perceived by the public to be matters of justice.

Under the individual votes I intend to raise a number of important questions which I shall briefly touch upon in this overview. For instance, under the vote on the courts I intend to raise the question of what should occur when the Attorney General introduces general legislation applicable across the province. Surely it is his responsibility to ensure that its implementation is possible.

I am informed that in Renfrew county we have an inexcusable situation with respect to family law and the right of a woman to appeal to a county court judge for an order removing a brutal husband. The only county court judge resides in Ottawa and is on significant occasions absent because he is sitting in Brampton.

What representation has the Attorney General made to ensure the appointment of an additional county court judge for a county which services, I am informed, 90,000 people? Why is there not a family court judge for that whole county? Why is there a courthouse which is costing, according to my information and subject to correction, $6,800 a month in rent, but which has no place for witnesses so that they must either stand around outside the court or sit in some vehicle while they wait to be called? Why is there not even a telephone for the use of lawyers? What kind of administration of justice is this?

Then we have the backlog situation in Hamilton. The Attorney General has implied on more than one occasion that he believes the fault may lie with defence counsel who apparently constantly ask for adjournment. Why has he not checked into the circumstances to ascertain just how many times defence counsel have asked for clear time to complete their cases, rather than proceeding as though they were dealing with a jigsaw puzzle, an hour or two here and there whenever someone or some place is available?

Why is he not intervening in the matter of the burlesque dancers who are being charged with public indecency? Some of them have stated they are willing to testify. Why does the Attorney General always protest they can't implement the Criminal Code as far as the owners of the establishments are concerned, stating that they cannot obtain the evidence? Wouldn't it perhaps be useful to see whether or not those who are prepared to give evidence are in fact prepared to give evidence, rather than dismissing those statements?

The Attorney General has cracked down on hockey violence, and rightly so; he has cracked down on problems on our highways, and so he should; yet we have heard nothing from him about cracking down on the use of children in the field of pornography. Why? Why has he made no statement on the matter of battered wives?

The Attorney General has stated that the provincial government will remain dedicated to a non-intervention policy in the parent-child relationship, despite the growing interest in children's rights. Why? How can he ignore the situation with respect to children, leaving the matter as it stands with the official guardian and still, as I understand it, not provide increased staff sufficient to enable them to carry out their function? I suppose I should ask at this point whether the Attorney General is in fact going to allow the official guardian to proceed with Mr. Leal, as requested.

I am delighted that the Attorney General has addressed the question of child abduction. I trust we will indeed see some specific legislation in that area.

Some of the matters I have related really are, in fact, within the federal domain; but so, in fact, was the matter of violence on TV, and that still elicited comment. Why is the Attorney General so silent on these other matters?

The Attorney General is not without intelligence, he is not lacking in perception, from the evidence of his painting he would not appear to be lacking in sensitivity; why does he not apply his intelligence, his powers of perception and his apparent sensitivity to the rigorous demands of his office?

I have brought before you today my concerns in a number of specific instances. Frankly, my overriding concern is with the Attorney General himself. I hope the Attorney General's remarks were not specifically addressed to me, that he does not indeed consider me to be an irresponsible person. I am not, as a rule, given to making hasty judgements. I have given this matter a great deal of very serious thought. I have put aside partisan consideration. My only concern is with justice and its administration in this province.

After some hours of hard searching I have, with some reluctance, come to the conclusion that it has become totally impossible for me to have confidence in the Attorney General's willingness to accept all of the responsibilities of his position as chief law officer of Ontario.

He has failed on numerous occasions to meet the criteria for Attorneys General which are enshrined in our traditions and which are part of our heritage. He has not been objective, he has not been non-partisan, he has not been watchful of the public interest, he has not always been just; he has not, in fact, been any number of things which an Attorney General should be, which an Attorney General must be.

With deepest regret, I wish to record my lack of confidence in the Attorney General and my recommendation that he give consideration to tendering his resignation.

Thank you, Mr. Chairman.

Hon. Mr. McMurtry: You didn't take Mr. Pearson's admonition to heart.

Mrs. Campbell: Oh indeed I did.

Mr. Chairman: The normal procedure, and the procedure I like to follow, is to have both of the opposition critics present their leadoff statement and to allow the Attorney General, or the minister as the case may be, whichever ministry is under debate, to answer both critics.

It is my intention this afternoon to adjourn at approximately 5:45 because the Attorney General wishes to meet with a couple of people from the labour movement, and we do have a vote in the House.

Mr. Warner: I appreciate that; if I could just have 30 seconds.

Hon. Mr. McMurtry: I am acceding to the request that has been communicated to me by the representatives of the labour movement, I am happy to accommodate them in that respect.

Mr. Warner: I would just like 30 seconds, I obviously don't have time for my 500-page opening remarks.

Mr. Chairman: The Attorney General took 54 minutes, so unless you can present 500 pages in 54 minutes, then—

Mr. Warner: I take it we are meeting tomorrow following routine proceedings. I first would like, if it is possible, a copy of the speech by the member for St. George.

I am very disturbed by portions of the opening address made by the Attorney General. While I had prepared material and was ready to go ahead, there are certain aspects of that address which I believe need to be commented on. That would be the place I would like to begin when we resume our sitting.

I think it is a matter of some importance. I had asked the Attorney General in the House the other day, regarding the Mr. Wood case; if I could have some answers to additional charges. I would be particularly interested in pursuing that because there is additional information, and if it is at all possible I would like to have the information prior to tomorrow. If that is not possible, say so, but if it is at all possible, I would appreciate receiving the information.

Mr. Chairman: Mrs. Campbell took 52 minutes. The minister took 54 minutes. Mr. Warner, you can aim at the middle.

The committee adjourned at 5:45 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

FRIDAY, NOVEMBER 2, 1979

The committee met at 11:24 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

Mr. Chairman: I am going to recognize a quorum. We have 18 hours and 17 minutes. We adjourned on the first vote. At that time Mrs. Campbell had completed her remarks, which took 52 minutes, as compared to the Attorney General's 54 minutes; we now have 53 minutes for the New Democratic Party critic.

Mr. Warner: First, Mr. Chairman, it's my considerable pleasure to have the opportunity to participate for the first time as the critic of the Attorney General in these estimates.

Mr. Lawlor: You are the first non-lawyer critic that ever appeared in the history of the estimates, I suspect.

Mr. Warner: Maybe the last one; you never know—despite those consistent rumours I hear about getting an honorary QC by the time I'm finished. While I may never be invited back to the Albany Club, that won't be a great sadness on my part—although I did enjoy it.

Hon. Mr. McMurtry: I sent in your membership application.

Mr. Warner: You did send it in? I'm pleased.

When we broke yesterday I mentioned, that while I had material prepared, the opening remarks by the Attorney General I found very disturbing. I'd like to start there. I'd like to start with those remarks. Particularly in view of the material which I had researched regarding the role and function of the Attorney General, I find the statements very peculiar.

I'm specifically referring to the comments contained on pages 36 through 38 of the minister's address yesterday, in what I take to be a lecture to the opposition as to their role.

I don't profess to be any expert in matters of law, or to be an expert as a rule in the role of a critic, but at the same time I do feel that I am able to determine what my function is in the Legislature and to try to fulfil that to the best of my ability. I know full well that the member for St. George (Mrs. Campbell) has always taken her role very seriously and has dedicated a good portion of her life to being a responsible critic of matters that concern law and order and the operation of justice in our province.

I was offended by the remarks contained in there, not because I'm a lawyer—because I'm not—and not because I'm any special kind of critic—which I'm not—but simply because they suggested to me that there was a certain way in which I should carry out my function. I assume that if I'm not properly doing my duties as opposition critic for the Attorney General it will be brought to my attention by my leader and by other members of the caucus.

[11:30]

What I guess bothers me—and this is where I think I would like some answers from the Attorney General—is that I get the sense there's something very deeply disturbing the Attorney General. I don't know what it is. There's something that has happened, either in this House or outside, over the last few months, which is bothering the Attorney General.

To be quite honest, before I became the critic and for the first little while, I found the Attorney General to be a very friendly, affable type of person; someone you could go and talk to; someone capable of responding in a very intelligent and forthright fashion. That's the Mr. McMurtry that I know.

But something's happened and I don't know what it is. I'd like to get to the bottom of it. I have my own little theory, and perhaps the minister could respond when there's the opportunity. I think part of it is that there is a conflict, a conflict on two levels.

There's a definite conflict of interest between being Solicitor General and Attorney General. I don't think that even the Attorney General, in his quietest moments of reflection, can consider that he can be both the boss of the courts and the boss of the police. That's just too difficult a task for any person to carry out with complete objectivity and complete integrity. But I think the conflict is on another level. I believe that the Attorney General, over the years, has obtained

the respect of many minority groups within Metropolitan Toronto.

I don't wish to be rude, Mr. Chairman, but could I ask whether or not I will have the undivided attention of the Attorney General for the next little while?

Mr. Chairman: I believe the Attorney General is simply getting information in order to respond to some of your questions. It's quite common for a minister to seek advice of his people during a critic's presentation.

Mr. Warner: I see. I take this matter very seriously, and I'm disturbed about it. I'd like to try to get to the bottom of it. In my own mind, I think part of the problem is that over the years the Attorney General has very legitimately gained the respect of quite a few minority groups, particularly in Metropolitan Toronto. On the other side, he has gained the respect, quite legitimately, of the police forces within Metropolitan Toronto.

Over the last several months, especially since the tragic death of Mr. Johnson, there have been pressures from all parts of the community. I think the minister is caught in the middle. On the one hand, he wants to help the minority populations in Metro Toronto to feel secure, to know that there will be answers to their problems. But on the other side, he finds it very difficult—to use just one example—to eliminate the height restriction for police officers.

The pressures are on both sides and the minister's caught in the middle. Maybe it is that kind of pressure, plus the conflict of offices which he has, that causes him to view us, as opposition critics, in not a favourable light; to react in a political way; and to abandon what is the British tradition of the attorney general.

Maybe there's some other explanation, Mr. Attorney General, but all I can say is that whatever it is, I wish you would share it with us. If there's one thing in common between the three of us, it's that we all have a deep interest in seeing justice delivered equally to every citizen in this province. We want that done and, if there is any way in which we can be helpful, we will be. There isn't anything I wouldn't do to assist in helping the judicial system in this province.

I don't know what it is that seems to be bothering the Attorney General—and there must be something, because we never used to get curt answers to our questions.

Hon. Mr. McMurtry: I have a sore back from time to time; so if I sound a little irritable, it may be because of that. I assure you it is not because of any purported conflict of interest.

Mr. Warner: Okay. That had been mentioned to me, by the way, that perhaps it was your back ailment. That is probably more reassuring to me than to think there is something else that is worse.

Hon. Mr. McMurtry: There is nothing worse than this.

Mr. Warner: But, at the same time, I would appreciate a response to the two items I have raised about the conflict of interest and being caught in the middle between the police and the minority groups.

Beyond that, I took the time to read a couple of articles. One, which my colleague from St. George mentioned the other day, I found quite interesting; it was by Sir Hartley Shawcross. Also, there was a paper by the Right Honourable John Silkin, Attorney General for England, on the functions and position of the attorney general in the United Kingdom. It is a very interesting article and in part mentions that, in making decisions on prosecution policy, the attorney general acts as an independent officer of the state; that is, independent of the government of which he is a member and of the courts before which he prosecutes. The function he exercises in this area is part of his function as guardian of the public interest.

"All ministers are accountable to Parliament, and the attorney general is no exception." He goes on to suggest that the proper role for the attorney general is that he can appear in cabinet meetings, but only to inform and not to engage in debate on matters and not to vote.

Hon. Mr. McMurtry: Just a matter of interest, I think if you go on you will find that Mr. Silkin, certainly from personal conversations I have had with him, believes that the attorney general should be a full-time member of cabinet. I don't know if he touches on that in the address that you are referring to, but I think he does.

Mr. Warner: Yes, and there are divided opinions on the attorney general being a full-time member; I have read three or four different papers—by Shawcross, Silkin, Jones and Rawlinson—and they are certainly divided on how full-time the member should be. There was some suggestion, in fact, that the attorney general should be removed from there and be an independent, non-elected person, but that was dismissed. But there is a whole range of opinion.

My view is that the attorney general's role should be an independent one, to the extent that the attorney general would feel an

obligation to render an opinion, even if that opinion were contrary to government policy or government thrust on an issue. That total objectivity is essential to the office, in my view.

I was also struck by some other comments, and I would very much appreciate your thoughts on them. I would like to put forward some of the comments:

"I grew up in a community that often did not provide simple justice for a majority of our citizens because of the divisions of privilege between those who owned land and property and those who did not; the divisions of power between those who controlled the political system and those who were controlled by it. The wall of discrimination, it separates blacks and whites.

"I am worried about a legal system in which expensive talent on both sides produces interminable delay, especially when delay itself can often mean victory for one side.

"As a public official, I have inspected many prisons and know that nearly all inmates are drawn from the ranks of the powerless and the poor. A child of privilege frequently receives the benefit of the doubt; a child of poverty seldom does.

"In many courts, plea bargaining serves the convenience of the judge and the lawyers, not the ends of justice, because the courts simply lack the time to give everyone a fair trial."

There are many more comments in a similar vein, and I assure you these are not the ravings of some far-flung socialist. Does the Attorney General recognize the general tenor of the remarks? Mr. Leal knows who they were made by. They come from one Mr. Jimmy Carter, the President of the United States, in an address he gave to the Los Angeles County Bar Association on May 4, 1978.

I am not going to suggest for one moment that our system of justice and law is identical to that of the United States—obviously it isn't—but the conditions he talks about, the differentiations between rich and poor, between those who have privilege and those who do not, between those who hold land and those who do not and so on, are applicable here in Ontario. I think that is the point from which I start: Those are the problems; how do we go about solving them?

I am not about to suggest that we solve all of those problems within our judicial system, because many of them come back to existing social problems. It is not entirely a problem that can be met by yourself or by others involved in a justice system.

There are some things that can be done. For example, the legal aid system is basically a good one. I agree with that. I think there are many more things that can be done with it than what we have now. I know you will tell me, as you did in your opening remarks, that there are things you are doing. I understand and appreciate that.

I would like to see an expansion of the community clinic aspect. It runs through my mind that that would be very useful in a lot of communities; not just Metro Toronto, but also in other communities. I refer to the kind of storefront operation where you have a trained lawyer, but you've also got other people. They are what, in the medical field, would be called the paramedics; I don't know the correct term, but I guess we could call them the paralegal people. They are there so that people like myself, or anyone else in the community, can walk into that office, if they are not sure what to do about a problem, and get some good advice. I do not mean only advice as to what they can do, but some idea about how they can respond to various things that occur in their lives. They might simply want to know whether they need a lawyer.

One of the best ways to deliver that information—one of the good ways—is through the community clinics. In our area, as far as I know, we've got just two available places. One is the Cedarbrae Library, where once a week a lawyer comes out and offers advice to people; I have sent constituents over there. The other is in the Warden Woods area; it is not in my riding, and I don't know the operation there, but similarly there is a lawyer there once a week. That's it for Scarborough, as far as I know. We need more, but I would think Timmins, Sudbury and other places do also.

I would like to know whether the Attorney General has such a deep interest in the legal aid system that he is examining how we can extend the coverage. I do not mean simply removing ceilings, although maybe that is one way to look at it, but whether there is some way to incorporate a government-run legal insurance plan. Is there some way of providing a better system of coverage for people who may require the assistance of a lawyer? In some divorce cases, for example, I understand people will run up bills of $4,000 or $5,000 on legal fees.

Mrs. Campbell: Don't sound so startled.

Mr. Warner: Maybe I shouldn't be. That is because I am not a lawyer; I am not used to those figures.

If that is the case, and the chap's income is perhaps around $20,000 or $18,000—I would think $5,000 is a lot of money in those terms. Are we looking at a payback scheme whereby some of the amount is forgiven and the remainder is paid back over a period of time? Is that one way to assist people?

[11:45]

I want to depart for a moment, Mr. Chairman, because I am aware of the time factor—

Hon. Mr. McMurtry: Excuse me. If I may just interject on a question of procedure, Mr. Chairman, I am concerned about this talk about the time factor. I spent 54 minutes in opening. If Mrs. Campbell had spent twice as much time as I took, it would have been her right and privilege. I really do have difficulty in accepting the suggestion that any of us should be limited strictly, either in our opening statements or in our responses. If Mr. Warner wants to take the next several hours, surely it is his privilege as a member of your committee.

Certainly Mrs. Campbell has raised a number of issues which may require lengthier responses than the actual raising of the issues, and it would appear that Mr. Warner is concerned about a number of issues. If he is serious, and I am sure he is, about having me share my thoughts with him and the members of the committee, it may require fairly lengthy replies from time to time. If there is going to be some time limit placed on this process, then in my respectful view we are defeating the whole purpose of a useful exchange.

Mr. Chairman: In response to the minister, I would refer him to the standing orders. I am directed by the standing orders and I intend to enforce the standing orders. The standing orders says: "The chairman of a committee considering estimates shall apportion the time available among the minister, opposition critics and other members. Latitude will be permitted to opposition critics on the first item of the first vote of each set of estimates, and thereafter members shall adhere strictly to the vote and item under consideration." I don't see what the minister's problem is.

Mr. Warner: There is nothing in there that would restrict me to 53 minutes. That is what the minister is saying, and I would agree.

Mrs. Campbell: I hope you are taking some time off Mr. Warner's remarks because we seem to be losing his time.

Hon. Mr. McMurtry: I am asking for guidance at this time. If the chairman is going to say that I am only entitled to so many minutes in reply, I am just putting you all on notice that I think it will turn this whole process into nothing less than a farce. I want to put that very strongly.

Mr. Chairman: I am sure the minister has been in estimates before, and he has been in estimates that I have chaired.

Hon. Mr. McMurtry: It has never been suggested to me before—

Mr. Chairman: If the minister will recall—and I am sure he has some memory of the previous estimates—the procedure in replying to the opposition critics is to deal with each of the questions they have raised, or those you feel that you want to answer; then the opposition critics in turn have an opportunity to respond and to have a dialogue on that particular item with the minister. I think that is a fair way of dealing with the apportionment of time.

What I will not do, of course, is allow either the minister or any one opposition member or opposition critic to monopolize the time of the committee. That is why I outlined that the minister took a certain amount of time, and that Mrs. Campbell stuck to a similar amount of time; I am expecting Mr. Warner in his opening statement to spend the same amount of time.

Mr. Warner: I won't monopolize the time. I have jotted down some of the subject material which during the course of the remainder of the time—

Mr. Lawlor: Mr. Chairman, may I interject on that point of order? I really cannot accept that. I have never heard of such constrictive and possibly restrictive rules. There can be occasions when a member has matters of great moment and takes very considerable time—even hours, if you want—in an initial statement. That is our privilege, and I would assert that privilege.

When these artificial rules of continuing process in this assembly and in committees are introduced to try to bring members into a very narrow scope et cetera, and when the chair seeks to make impositions upon them, I think the members are under an obligation to protest, and I do so. I don't think we should be bound by those rulings at all; nor should the Attorney General in reply. We are free people.

Mrs. Campbell: Mr. Chairman, if I may, since you've spoken, I agree with the basic philosophy of both the Attorney General and Mr. Lawlor. My difficulty is that we have had problems in the past with estimates

generally, and the House seems to have taken cognizance of it.

We all have to remember that we have a certain number of global hours for a committee and, in Mr. Chairman's attempt to control, the effort is being made to enable the private member who is not a critic to get into the debate. I think that is the purpose of trying to get some kind of order. If I am wrong, correct me, but the private member does not come into the opening portion. The private member may be precluded for the whole estimates if we take up too much time.

I think it is only fair, in support of the chairman, to that extent. However, it does seem to me that the Attorney General ought to have the right to respond as he sees fit, bearing in mind, however, that he shouldn't trespass, if he can help it, on the time of the back-benchers in this area, if you want to put it that way, who may have particular points they wish to raise as the votes proceed.

Am I correct in my statement and that position, Mr. Chairman?

Mr. Chairman: Precisely. You made a better statement than I was going to make, Mrs. Campbell. That is the position of the chair, and it is a position the Attorney General should have known without my having to say it.

Mr. Rotenberg: On the point of order, Mr. Chairman: Since it has been raised by other people, I think the purpose of the new standing order was to try to have the times allocated reasonably equitably to the three parties in an estimates debate. From that point of view, I think Mrs. Campbell is correct that the critics shouldn't dominate and other members should have a chance.

However, I also agree somewhat with the point of view of the member for Lakeshore (Mr. Lawlor). I don't think we should be so constrictive that, if one person takes 54 minutes, someone else can take only 54 minutes.

I for one, as a member of this committee, would have no qualms whatsoever if Mr. Warner, instead of taking 54 minutes, took 65 or 72 minutes in his opening statement, provided some track is kept of that. Then, when we get a little constricted for time towards the end, if he or his party has used up 20 minutes more than the Liberals, say, and Mrs. Campbell has a point to raise, she should get some preference later on. Within the global 20 hours we should have some equity in the amount of time for the three parties. I am quite prepared, as a member of this committee, to allow Mr. Warner to go beyond the 53 minutes if he feels he has important points to raise—as long as you, Mr. Chairman, are keeping some track of it so that it evens out later on.

Mr. Chairman: I am pleased, Mr. Rotenberg, that you have just shown you are in agreement with the way in which I have handled all of the estimates to date. Perhaps we can get into some substance and deal with the matters that Mr. Warner is raising.

Mr. Warner: I think I have used up my 53 minutes.

Mr. Chairman: I don't think that you, Mr. Warner, have used it up. I am instructing the clerk to keep track of the amount of time that was just spent on this procedural matter and not to include it in your time.

Mr. Warner: I have several items I would like to raise, and I thought that if I mentioned them now, we could deal with them during the next little while as we come to the appropriate votes—if that is agreeable to yourself.

I would like some discussion on the overcrowding of the courts. Mr. Justice Holland has spoken on the matter; other people have spoken on the matter. I would like to know what your opinion is on the overcrowding, with regard to streamlining the procedures.

Do you have statistics that would indicate we are laying too many charges? Is that why we are ending up with a lot of people in court? Is it the fact that lawyers are double booking, triple booking, or whatever the term is, so they cannot be in more than one place at one time, physically? Or is it simply a matter of appointing more judges and building more courthouses?

There are probably other factors as well that you consider, and I would like some discussion on that. I would like to know if you feel that whatever changes have been made in the court system when dealing with juveniles are sufficient. Are there other changes that need to be contemplated which would be of assistance to juveniles who find themselves in our court system?

I understand that you have made your position clear previously, but I would like some discussion around the topic of the public defender system. There seems to be some uneasiness amongst lawyers in this province that sooner or later we will have a public defender system. That may be totally unfounded, but there are lawyers who feel that way; so I would like some discussion around that.

I would like some idea as to the status of the report by the committee, with which I

think Mr. Leal has been involved, which has been looking at the four professions in the province and the self-governing aspect of some of those, such as the Law Society of Upper Canada, and whether there should be a reporting mechanism back to the Legislature rather than strictly to the law society.

I'd like some discussion about Dan Hill, who was appointed some eons ago to look at—

Hon. Mr. McMurtry: Not very long ago.

Mr. Warner: Time is fleeting down here. It is the time-pressure world we live in. But I thought it was some while ago. I would like an update on Mr. Hill's investigation, and other preliminary reports. What is the status of that?

Also, I believe there was to be a report from Mr. Walter Williston on the streamlining of the courts. That probably fits into an item I mentioned earlier.

I would like to know how many royal commissions are still in existence; how many we still have on the books and what their status is. I am a little interested in the status of the appeal in the Hamilton harbour dredging case. I am just not sure where that is at right now.

I do appreciate the fact that in your opening address you mentioned children's rights, and I would like to explore that when we get the opportunity. I have a great interest in that. I understand you had a very lengthy submission given to you by an organization around children's rights, and some lawyers who were involved in that. I am sorry, I have forgotten the name, and I do not have it with me now.

Hon. Mr. McMurtry: Justice for Children?

Mr. Warner: Justice for Children was the name of the submission. I would like to know what was done with respect to that submission; what was the follow-up, and so on. I appreciate the fact that you have included it; you have obviously shown an interest in it.

I would like to know about the auditing and the collection of fines; how much has been collected, whether there has been an increase, what the money is used for, and so on. I gather there are outstanding debts which have probably been written off; I would like to know what amounts, and why, and whether those could or should be collectable by the Ministry of Revenue, rather than by your ministry.

Hon. Mr. McMurtry: If I may just interject, I would be very happy to get any support from committee that is available to give the Ministry of the Attorney General the right to utilize the fines collected for the administration of justice.

Mr. Warner: They go into general revenues?

Hon. Mr. McMurtry: Unfortunately, it either goes to municipalities for bylaw offences or into the consolidated revenue fund.

Mr. Warner: I tell you what, I might be willing to trade that one off for a commitment that the orders from the courts to fathers who have deserted their responsibility would be enforced by the Attorney General instead of being left to the Ministry of Community and Social Services. It seems to me that the real pressure on those fathers who are supposed to be paying money every month, but don't, could and should come through the Attorney General. I'd be willing to trade that off, I think. We can discuss that one.

[12:00]

I appreciate what has been done by the government with respect to the use of the French language in the courts. What I'd like to know is whether that policy is going to be expanded and extended to every court. I want to know what the long-range goal is for the government with respect to the use of the French language in the courts, and, of course, being able to supply legal services in the French language. I can just see in my mind having a court that will have a bilingual judge but no lawyers. I'd like to know what the long-range goals are on that.

I think we need to have a little discussion on the pay scale for jurors and witnesses. Are they adequate? Are they going to be increased? What is your feeling about it? What are the advantages and disadvantages? I have had, and I suspect you have had as well, some fairly lengthy letters regarding the free trips for judges which are paid for by lawyers—lawyers individually, I think, by the Advocates Society. I continue to get a stream of mail on the subject, and I would like a very frank, open discussion about it, and your ideas.

I have my own views, and it seems to me to be inappropriate, because of the whole notion we often talk about, that justice not only should be done, but also has to be seen to be done. When you have lawyers, or a group of lawyers, who invite judges and their wives, at lawyers' expense, to go on a trip somewhere in the world outside of Ontario or Canada—with free meals and so on—while judges and lawyers should be above suspicion, and generally are, it doesn't leave a very good impression.

At this point, the issue has hit only the high spot of Zena Cherry's columns, and that, to the Attorney General, must be more

satisfying than page one. But perhaps we could—

Hon. Mr. McMurtry: I don't know how you answer that one.

Mr. Warner: Zena Cherry never writes about me; so I can make those statements. That's the problem. The one trip I made to the Albany Club never got written up.

Mr. Rotenberg: You just don't go to the right places.

Mr. Warner: That wouldn't sit well with my constitutents.

Mr. Rotenberg: It's recorded for posterity that you went to the Albany Club.

Mr. Chairman: I hope you didn't hand out my cards on that occasion.

Mr. Warner: As a matter of fact—

Mr. Chairman: I was wondering where I was getting all that case work.

Mr. Warner: You've made some reference previously to RCMP wrongdoings, the McDonald inquiry, and so on. I think we need to first have a very frank discussion about it, but also perhaps some written indication. There must be something in writing from that McDonald commission which needs to be shared here.

One of the things that was raised earlier, as I recall, was that there was testimony to the effect that there had been spying on certain left-wing organizations in Ontario and British Columbia during 1970. I'm just going by memory, but it seems to me it was around 1970 or 1971.

First, I assume that the party I represent is a left-wing organization. It isn't always accused of being that, but I take it that it is. There are others, admittedly. I'd like to know, among other things, since you likely have the information now, whether or not members of the New Democratic Party were spied upon during 1970 by the RCMP? If so, for what purpose, and where are those reports? What's ever happened to those reports?

We need to have some discussion of the office and role of the official guardian and how effective or ineffective the official guardian is, it seems to me. I'd like some discussion about the invasion of privacy. There has been a commission for the freedom of information. I'd like to know if that commission or its work will result in any changes in laws regarding the invasion of privacy.

I'd just bring forward a small item. It may not be all that small. There's an item published called the Might's Directory. You're probably familiar with it. The assumption I always had was that the information for the Might's Directory was collected with the individual's permission. Apparently they use more than one source. It's indicated in their directory that the material has been collected from more than one source; so it is entirely possible that if I don't wish to give the information, they're going to get information about me from some other source.

To use one small example, there are people who are concerned about invasion of privacy. I'd like to know if the work of the commission on freedom of information might also result in some changes in the laws respecting invasion of privacy.

Since you quite properly brought forward the results, although I may disagree with them, I would like to know, your legal opinion, as the senior law officer of the crown, on the role of the Ombudsman. You mentioned to the committee that we voted in the House, and the House agreed that certain things were going to be done. You said that was all very nice, but it really couldn't happen if the Workmen's Compensation Board agreed that it didn't want it to happen; there wasn't anything we could do about it, because legally the WCB has the power to veto what we've done, I guess, is the essence of it.

If that's the case, do you have a suggestion as to how we're going to overcome that problem? What happened, quite frankly, or the potential of what can happen as a result of that, is an affront to this Legislature.

We have an Ombudsman who attempts to solve problems. We also have members of this assembly who spend a great deal of time and effort trying to support the work of the Ombudsman, in attempting to resolve problems with the Workmen's Compensation Board, which, quite frankly, seems to be out of control. If your legal opinion is correct and all that work is down the pipe, then the Ombudsman might as well forget working on WCB complaints. I think we need some discussion on that.

Finally, you mentioned on page seven of your opening statement something that I took to be a function of the Solicitor General. It leads to the problem we've had to live with in Metropolitan Toronto for some time and for which you are going to bring forward a bill to deal with; I refer to citizen complaints.

Obviously, we don't know the contents of the bill but, among other things, the whole issue of complaints against police highlights the conflict of interest you have to live with at this point. You've got the police on one side and the citizens on the other side, and

you're attempting to represent both of them. It can't be done.

Hon. Mr. McMurtry: I don't want to interrupt—and I'll have a great deal to say about that—but, with all due respect, I think you fail to recognize the overall responsibility of the Attorney General for the proper administration of justice in the province. To suggest I'm caught between the police on the one hand and the public on the other hand, I think fails to recognize that these are indeed issues that have always faced Attorneys General in respect to their overall responsibility for the proper administration of justice and law enforcement in the province. But I'll have a great deal to say about that in view of the interest.

Mr. Warner: I approach it a little differently. I would say that the Attorney General would have a deep concern about citizens who feel they have complaints against the police but have no way to have those complaints dealt with effectively. As the Attorney General then tries to develop some way of handling that problem, he would have expressed to him, probably in fairly strong terms from the Solicitor General, the Solicitor General's concern about the protection of the police forces—protecting their integrity, their ability to function properly, and so on. That opinion would come from the Solicitor General to the Attorney General. You missed some very interesting conversations.

Mr. Leal: All good-natured.

Mr. Warner: All good-natured, I'm sure; between himself.

That's the way I approach it. I would like, at the appropriate time, to hear your comments on how the Attorney General goes about answering those problems which have been raised by citizens about how they legitimately bring up their concerns about police and have them dealt with in a way that is helpful to them as citizens but does not undermine the good work that has to be done by our police force.

Second, from earlier comments you made I took it that you're looking strictly at Metro Toronto; you probably have reasons for it, and I can understand some of them. This morning I read in the Toronto Sun, one of my favourite newspapers—actually someone showed me this page; I wouldn't admit to being an avid reader of the Toronto Sun—"Police throw barely clad teen into cold." This did not occur in Metro Toronto; it happened in the York region. Now where does this citizen go with the complaint?

I have a suggestion that I'd like you to respond to, and it is this: Will you consider making the legislation available to any municipality that requests it? We know we have an immediate problem in Metro Toronto which we hope your legislation is going to address in a meaningful way, but will you make that legislation available to any municipality that requests it? York region, Peel region, or any other large urban area, may well say: "We'd like that; we want that."

My thoughts are that that is infinitely better than simply saying it's for the entire province, or it's only for Metro Toronto; that there's nothing in between. I think here is something in between. Some of the large urban areas, or even smaller areas, which have a concern would have a model they could adopt. I'm putting that forward as a suggestion.

There are two other items. One is about the dog-fighting. Frankly, I sent you a letter; you were kind enough to respond. I'm baffled. I am totally puzzled. We're talking about $50,000. I'm willing to bet that this government blew more than that a week or so ago down at the Harbour Castle—a fairly worthwhile thing, I suppose; I was a little offended.

Hon. Mr. McMurtry: I was in Halifax.

Mr. Warner: You missed out on it. I'm willing to bet that the government blew more than $50,000 that evening.

Mr. Chairman: I'm sure that, even though the leaders of the two opposition parties weren't introduced, the Attorney General probably would have been introduced.

Mr. Warner: Oh, yes; right. It was a big Tory convention.

Hon. Mr. McMurtry: The whole province is going Tory. We can't do anything about it.

[12:15]

Mr. Warner: Well, I'll try. The way I look at it is that it is $50,000 now but, unless something is done, a few years from now—perhaps in two to three years; maybe a very short period of time—you are going to be spending a lot more than $50,000 to root out what, quite frankly, is a very odious and barbaric type of activity. You and I share that understanding, but what I don't understand is your reluctance to spend what is really a pretty small sum of money.

Hon. Mr. McMurtry: I can assure you, Mr. Warner, that I am not reluctant. I can't conceive of not wanting to spend a great deal more money on the administration of justice, whether it relates to the Ministry of the Attorney General or to the Ministry of the Solicitor General, in respect to the matter you are just raising. You have no issue with me in that end.

Mr. Warner: Okay. But in this instance you are not going to spend the $50,000. When you've got a chance to respond to my letter which you must have missed, will you assign one undercover Ontario Provincial Police officer to the Ontario Humane Society to carry out an investigation? Could you do that?

Hon. Mr. McMurtry: Again, I can tell you that that has been done.

Mr. Warner: You have assigned someone?

Hon. Mr. McMurtry: The OPP and the humane society have worked very closely in the investigation in this area, and arrests have been made. This has been going on for some time.

Mr. Warner: I understand that; that is a nice try, but you haven't answered my question. You won't assign a special officer for this special investigation.

Hon. Mr. McMurtry: That is not accurate but, in any event, continue.

Mr. Warner: Okay. The last item is about Mr. Roy Wood. Can you tell me if there are other charges? Mr. Roy Wood was formerly a detective in Peel region. He left the country. He was a police officer when he left the country. While in England, charges of theft were laid. He then mailed in his resignation. Some investigation was carried on, and they sent officers to England. They found some of the $1,300 worth of stolen goods.

For some reason, about five weeks lapsed before there was any decision on whether to extradite Mr. Wood to face the charge of theft. That time frame—and some of the publicity that was given to it, I suppose—has resulted in the fact, I understand, that Mr. Wood is no longer in England. In fact, it is entirely possible that he is in Bolivia at present.

Can you tell me if there are charges other than theft which have been laid against Mr. Wood?

Hon. Mr. McMurtry: Do you want to deal with this now?

Mr. Warner: Yes.

Hon. Mr. McMurtry: My understanding is that the only charges—the appropriate charges have already been laid, and they are theft and possession of stolen goods.

Mr. Warner: And that's it?

Hon. Mr. McMurtry: My information to date is that there are no other charges that should be laid.

Mr. Warner: I am very uneasy about this case. I understand that the situation has not been investigated by any police force other than the Peel Regional Police Force. I make a very simple request that the circumstances surrounding the activities of one Mr. Roy Wood be investigated by the Ontario Provincial Police. I have met a contact person, whose name I will not reveal in Hansard, but whose name, address and so on I will be quite happy to give you. This person maintains there are some serious problems, and it is more than a matter of theft. I would like to give you that information in confidence and ask if you could follow that up with an OPP investigation.

Hon. Mr. McMurtry: We will certainly follow it up. I can't say in advance that it will be an OPP investigation, but I can assure you that your information will be very seriously pursued.

Mr. Warner: Could you let me know later on what the results of that are? My information is that it is a very serious matter, and that the $1,300 theft is entirely minor compared to what is involved.

Hon. Mr. McMurtry: What I would like you to do, Mr. Warner, perhaps at one o'clock, is to speak to Mr. Takach, our director of crown attorneys, so you can share that information with him when we adjourn.

Mr. Warner: Okay. Lastly, as I finish, I was very startingly moved by the speech given yesterday by my colleague the member for St. George (Mrs. Campbell). I am not going to call for your resignation, although I have done that in the past.

Hon. Mr. McMurtry: You call for all our resignations every day of the House.

Mr. Rotenberg: I'm really disappointed David.

Mr. Warner: Well, hang on.

Hon. Mr. McMurtry: Only as Solicitor General; not as Attorney General.

Mr. Warner: Not today. But I do remember that, at the time of your appointment to the two portfolios, it was suggested that within a relatively short period of time—I think six to eight weeks—we would have another Solicitor General. That hasn't happened. Most of us in this assembly expected at the time of the last cabinet shuffle that there would be a Solicitor General appointment. We don't have that yet.

I think the situation has reached the stage of being intolerable. I don't think we can tolerate the conflict of interest any longer. I would ask you to say to the Premier that you can no longer fulfil those two roles; not because of a lack of ability, energy, intelligence or anything else, but simply because of the very basic point that the Attorney

General has an office that is entirely separate and apart from the Solicitor General and must be maintained by one person who has only that interest.

If you cannot ask him to do that, then I will have to ask for your resignation, because frankly I cannot live with this any longer; it just isn't right.

Hon. Mr. McMurtry: Maybe I'll have an opportunity to educate you so you will understand a little bit better. Which I am quite prepared to do starting right now.

Mr. Warner: I would feel a bit intimidated and threatened by that if it weren't for the fact that other members who are more knowledgeable than I in the law, and more experienced with justice, share the same kind of feelings: the member for St. George (Mrs. Campbell), the member for Riverdale (Mr. Renwick), the member for Lakeshore (Mr. Lawlor)—there is a long list of members who are very upset about this schizophrenic activity.

Hon. Mr. McMurtry: Do you want to talk about that right now?

Mr. Warner: Sure. We can talk about your schizophrenia.

Hon. Mr. McMurtry: I am very interested in the remarks that have been made. I think it is very helpful for the justice critics to outline areas of concern in their opening statements, because it gives us an opportunity to respond as comprehensively as we can during the course of the estimates.

Quite frankly, Mr. Chairman and colleagues, I really do look forward to the Attorney General's estimates. As I said in my opening statement, it does give an Attorney General a unique opportunity to discuss important issues that cannot be done effectively in any other area, in so far as the Legislature is concerned. The question period obviously places certain limitations on any significant dialogue, because it is not the nature of the question period to enter into a dialogue. The estimates do provide this opportunity, and I want to reiterate once again that I am very pleased to have this opportunity.

I was going to commence my response by responding directly and fairly emphatically to some of the statements made by my colleague the member for St. George, but in view of the fact that so much interest has been expressed about this alleged conflict of interest between the role of the Attorney General and the role of the Solicitor General, it seems to me that it might be appropriate to deal with that first.

I repeat that there is no conflict. The responsibility of the Attorney General, the traditional responsibility for the proper administration of justice and law enforcement of the province, goes back many years. Indeed, eight out of the 10 provinces to this day believe that responsibility should include the administration of the police forces; to my knowledge, Ontario and Alberta are the only provinces that have chosen to give responsibility for the police to the person known as the Solicitor General.

The member for Scarborough-Ellesmere (Mr. Warner) points out that he is not a lawyer, and therefore he is relying to some extent on the views of other lawyers in the Legislature who have expressed concern. Notwithstanding the fact that he may not be a lawyer, I think the member for Scarborough-Ellesmere is demonstrating a determination to come to grips with these issues and certainly is developing a very good grasp of them. I commend him for that.

In relation to the views that have been expressed about the role of a Solicitor General, I think it would be helpful if I were to refer the members of the committee, and particularly the member for Scarborough-Ellesmere, to the debates of the Legislature of Ontario, and more particularly to the debates that took place in April 1972, when the office of the Solicitor General was created. I will quote in part, and these debates can be found in their entirety. There are many pages in relation to the second reading of Bill 28, An Act to establish the Ministry of the Solicitor General moved by Mr. Yaremko. I am beginning to read from April 6, 1972, at page 921.

The member for Ottawa East (Mr. Roy) commenced his contribution by stating that a Solicitor General in this province is superfluous. That was his view, the view of the then justice critic for the Liberal Party.

At page 927, the member for Lakeshore stated: "We will have to oppose it; we do not think there is sufficient substance to this department to warrant the establishment of the department under this head."

Commencing on the same page, the member for Riverdale stated: "I think we would support the bill"—and this is very important—"if it were not for the transfer to the Solicitor General of the administration of the Police Act." He goes on to say: "The inclusion of the Police Act in this bill gave us very serious pause; so much, in fact, that we have decided that we will vote against it."

Mr. Renwick went on at page 928: "If you make a separation between the administration of justice and establish the police under a separate ministry, you go some way to de-

stroying the very nature of the police constable in society."

So, just stopping there, you have had some very strong comments from distinguished lawyers of this Legislature who clearly were of the view in 1972 that it should remain with the Ministry of the Attorney General.

Mr. Renwick, again at page 929, on April 6, debates: "I, for one, do not think that we should separate it out into a separate ministry and away from the Attorney General, who is responsible overall for the administration of justice."

Mr. Renwick again, at page 930: "If we accept the premise that that is the role of the police constable, then it seems to me that we should be very chary about transferring and severing the organization of administrative structure related to the police from the Attorney General, who is involved with and responsible for the administration of justice."

These are very strong statements that would appear to disagree, very fundamentally, I say with the greatest respect, Mr. Warner, with the position you have espoused here today.

[12:30]

The late Mr. Bullbrook, the member for Sarnia, a very distinguished lawyer and a leading member of the Liberal caucus, stated at page 932: "I want to say that I associate myself with the remarks of the member for Riverdale to a very great extent . . . I am personally going to vote against this bill on second reading." Mr. Bullbrook went on "I am going to vote against this bill on every opportunity that I have, because we are removing a sense of equity and justice from the administration of law in the province of Ontario—law including the enforcement of law and the dissemination of justice through the courts. One minister cannot be responsible for one and be responsible for the other." That would appear to have been the view of the Liberal caucus on that occasion.

The former leader of your party, at page 937 on the same day, stated: "It strikes me that there is something inherently dangerous about establishing this definition of the Ministry of the Solicitor General. It turns the minister into a public apologist for the police forces of Ontario." He went on to say why, in his view, it was inappropriate.

I have to say I am curious, given the very strong statements in 1972 by members of both opposition caucuses who were very distinguished lawyers and who very vehemently opposed the taking away of the police responsibility from the Attorney General, that some seven years later there would be this directly opposite concern expressed from both the caucuses. One is tempted to come to the conclusion, Mr. Chairman, that it is really for partisan political purposes, and for those purposes alone, that this issue has been raised.

I am concerned, and I can tell you I really did not anticipate some of the remarks—particularly the remarks from the member for St. George—when I made my opening statement, when I offered some useful suggestions as to the role of the justice critics. But having heard her opening statement, I have to say that I believe those remarks to be particularly appropriate.

Mrs. Campbell: Mr. Chairman, on a point of privilege: The Attorney General has taken the position, and has stated, that the positions taken by both critics, after a great deal of deliberation in my case, and I am sure in Mr. Warner's, is some sort of shoddy partisan position.

I want to make it perfectly clear that in 1972 the circumstances which prevailed, certainly in Metropolitan Toronto, were entirely different from the circumstances which we have seen developing over the course of the last few years.

I take great exception to the fact that a person in all honesty, as Mr. Lawlor did at one point, may take a position which was in the context of that day, and then, viewing the matter in the light of the present context, recognizing what is perceived by me and others to be the conflict which has arisen and which I foresee to be a very real one in this day.

I want it thoroughly understood that I did not approach that situation on a partisan basis; I approached it out of a very deep concern for the function of the office of the Attorney General as I have perceived it for the last while.

Mr. Chairman: Thank you, Mrs. Campbell. That wasn't exactly a point of privilege but, since the members of the committee were obviously—

Mrs. Campbell: I think it is a point of privilege to be in the justice committee, Mr. Chairman.

Mr. Chairman: Mrs. Campbell, since the members are obviously interested in the point of view and the clarification, I've allowed you to carry on.

Mr. Lawlor?

Mr. Lawlor: I think that the remarks of the Attorney General are quite unfair, and the attribution of motives to us in that particular context simply has to be taken issue with. On the contrary, it is—

Hon. Mr. McMurtry: On a point of order, Mr. Chairman: I was attributing no motives to the member—

Mr. Lawlor: You said the latest things were solely and entirely for partisan and political reasons.

Hon. Mr. McMurtry: I was attributing the motives to your justice critic—

Mr. Lawlor: Yes.

Hon. Mr. McMurtry: —but not to you. I just want to make that clear.

Mr. Warner: I wouldn't have bothered going through all the historical data if I wanted to take an issue and use it for a political purpose. I don't need to do that. I don't need to go reading Shawcross or anybody else if I simply want to hammer you politically. I read that material because I honestly believe in the British parliamentary system and want to find out more about it. I honestly thought that by reading it, and by entering into a dialogue, we could have a meaningful discussion about the role of the Attorney General.

I am a novice at the thing, but I think I have a grasp of where you start as the Attorney General. I have a disagreement with you over that role. But to ascribe political motives to it, I think is crazy. Do you think anybody out there really cares as much as we do about the difference between the Solicitor General and the Attorney General?

I'll tell you, the people in my riding care a little bit more about the dog fighting; they get a tremendous response to that kind of stuff. If I want to do something political, I'll do that. But to get into a theoretical discussion about the role of the Attorney General and the role of the Solicitor General is something that is very important. It is important to the justice system in Ontario. It is important to me.

I don't understand why you would say that you are ascribing political motives to it. It doesn't make sense. I'd rather we were able to have a thorough discussion about the role, and see whether there is some way we can resolve what we take to be an issue.

Hon. Mr. McMurtry: I will just make this gentle observation. The member for Scarborough-Ellesmere has requested my resignation as Solicitor General. The member for St. George has requested my resignation as Attorney General. I don't really take any of that very seriously. But you are playing partisan political games, and if you think I am going to sit back and listen to some of this nonsense and just accept it—

Mr. Warner: But you don't have any interest in it then.

Hon. Mr. McMurtry: Yes. I indicated I wanted a useful dialogue. But when you sit there and say, "I can't tolerate one moment longer the fact that the same individual can exercise these two responsibilities," I just say in that respect you are spouting absolute nonsense.

Mr. Warner: Then show me where I am wrong.

Hon. Mr. McMurtry: I just thought we would educate you by telling you a little bit about what members of your own caucus have said.

Mr. Warner: You don't need to lecture to me. Tell me where I am wrong.

Hon. Mr. McMurtry: You people are setting the tone. If you want to have some fun, we'll have some fun.

Mr. Chairman: Order, please. I think certain members of this committee, and I am including the Attorney General, are setting the tone at this point in time. I don't think that attributing motives to the opposition critics or vice versa is at all helpful to an educated dialogue of these matters. I would ask the members to stick to the issues.

Mr. Lawlor: Mr. Chairman, may I continue my remarks? I am by no means finished diversions et cetera. I would have thought you might have given some credit to the opposition for having the flexibility and openness of mind to be aware, as Margaret says, of changing circumstances in the situation.

Hon. Mr. McMurtry: We are used to that from the Liberals flip-flopping—

Mr. Lawlor: It does appear to some of us that, as a result of that Provincial Courts Act and your altercations on that occasion with the police et cetera, we have to explain to ourselves this rather serious delay, in the light of numerous reports—Morand, Maloney and dozens of others—on your part, as a responsible officer of the crown, in moving into the area of some form of civilian review. You have not done so. We've waited with bated breath for it. It is promised. We haven't seen the light of day, and this gives at least me pause to wonder what is behind all of this.

Hon. Mr. McMurtry: Attorney General's estimates—

Mr. Lawlor: The only reason one can attribute to it is the—

Mr. Chairman: Order. One at a time. The Attorney General will behave himself in these estimates. Mr. Lawlor was dealing with the connection between the Attorney General and the Solicitor General. He is in order. He has the floor and the Attorney

General will kindly be quiet and listen to him.

Mr. Lawlor: It seems to us good grounds—

Hon. Mr. McMurtry: Nonpartisan reasons, Mr. Chairman; remember you are not partisan.

Mr. Lawlor: —to have doubts, suspicions. We believe that at this stage in history there is some conflict, because of recent events in the city of Toronto, which places you in a position of suspense, in a position in between two poles. You have to give accord as Solicitor General to the legitimate wishes of the police force in the province. In some areas and in some elements, that is thoroughly intransigent and pretty difficult, and you know it.

You have had public hearings in which you heard certain representations by police officers which took direct issuance with the legislation you were bringing forward. It was expressed on that occasion that it would be a virtual disobedience in the event of certain legislation coming into being. As Solicitor General you cannot afford—this is your role, as I see it—to offend the police as such; therefore, you are caught on a hook there.

As Attorney General, your role and function is far broader and has far more implications for the population as a whole. True, you have to take into account the role of every element in the population. But if these elements, because of an evolution in time, come into conflict, you are at the centre of that conflict. To say that you are in any other role at this time seems to me a failure to face the full measure of the difficulties that face all of us in this regard.

What is the best way to separate that out? The best way is to have an independent office giving full weight and cognizance to the legitimate demands of the police force on one hand, and on the other for you to take the far broader perspective and try to make some adjustment. In a single person that is extremely difficult, I put it to you, and therefore there is some kind of psychological bind which is obtruding upon the due performance of your office in either capacity or both.

I think you should give darned good consideration to approaching the Premier (Mr. Davis) and saying: "Listen, this is too conflicting and too dividing; it is difficult to do justice to both sides of the fence. I think someone else with whom I can be in colloquy would be better at this particular time in our affairs in this province."

That is our position—or my position certainly. To attribute any other motivation to it is a bit aggravating at this time.

Hon. Mr. McMurtry: Mr. Chairman, I respond now, at least in part, to the comments of the member for St. George yesterday. Those contained, in part, a press release issued yesterday and today. I reiterate my view that the member has, I think regrettably, succumbed to some form of compulsion to really politicize the office of the Attorney General.

I want to express my very deep disappointment, because in the past the honourable member has on many occasions made a significant contribution to the administration of justice. I would state today that many of her opening statements demonstrated a sound grasp of the traditions and principles of the office of Attorney General. I want to suggest that a number of the areas she touched upon should, and will be, the subject of hopefully very useful dialogue and discussion during these estimates. But I say, more in sorrow than in any form of anger, that the member for St. George did make a conscious decision to make some political mileage instead of really respecting the traditional role of the justice critic. I'm not going to attempt to respond to everything she said, because some of it is just patent nonsense.

[12:45]

I must say that, being a politician, I recognize I have to become accustomed to being the butt of sometimes wild and baseless allegations If they touched upon me only as a person, or personally as an individual, I probably should choose generally to ignore them. But the member for St. George in her opening statement has chosen to involve my office as a whole in what amounts to some degree of just plain ordinary vilification. That, as it involves the office as a whole, is not going to go unanswered.

The member stated at the outset that once confidence in the justice system begins to erode, democracy itself is threatened and eventually lost. With that, of course, I would agree. Then, regrettably, she has, by a tissue of innuendo, unsupported by any evidence, attempted to envelope the office of the Attorney General at this time in a shroud of suspicion.

Take but one example. The honourable member asked whether history would judge me as a political animal or as a person of integrity and independence rising above party considerations. Then she referred, without any evidence, or any facts, or any examples, to the changed circumstances with respect to crown attorneys. Of course the

crown attorneys represent the most vital arm of the Ministry of the Attorney General.

She went on to state that over the last 20 years the essential independence of crown attorneys has been steadily eroded, and that they have become increasingly subject to centralized political control. She went on to say that crown attorneys must be free of political influence.

I say through you to her, Mr. Chairman, that if the member has something to say about the crown attorneys of this province, let her say it. If she has evidence of political control over crown attorneys, let her bring it forward. If she has evidence of political influence in that most essential, important and sensitive office, let us hear it now.

I cannot stand by, and I won't stand by, and let the member, by innuendo—and, I suggest, in her attempt to score political points against me—suggest political control or influence of any sort in the conduct of the crown attorneys of this province. It is clear in my view that the member for St. George simply does not know very much about the crown attorneys of this province, for I can say that having enjoyed my responsibilities for better than four years now, no crown attorney, crown law officer or assistant crown attorney in this province would permit himself or herself to be used in any way; to be influenced or be used for any partisan political purpose.

Mrs. Campbell: The word "partisan" was not used in that statement.

Hon. Mr. McMurtry: "Political influence" was used, and the clear innuendo as to what that means. The honourable member should know better than to suggest—in her anxiety to cast some sort of pall over my stewardship—that the crown attorneys of this province have permitted themselves to be politically controlled.

Ministers and Attorneys General come and go. Opposition critics come and go. It is only fair and fitting, in the give and take of the politically accountable legislative process for them to take vigorous issue with each other. But it is not fair, and it is not fitting, and it is not responsible, for any member, by innuendo, to cast a slur upon the crown attorneys, who cannot respond to this type of political mudslinging.

At this point in the estimates I suggest that the member for St. George owes the crown attorneys of this province an apology, and I would hope that she would be responsible enough at this moment to remove any slur that has been advanced against them. I take this very seriously. Before I continue to respond to many of her other issues—many of her other points have raised serious issues that should be discussed—I urge the member for St. George either to produce evidence to support her allegations against the crown attorneys of this province or to make a decision to withdraw what in my view amounts to gratuitous and slanderous allegations against many very committed, dedicated and independent individuals. I would invite her to respond at this point, Mr. Chairman.

Mrs. Campbell: I will be delighted to respond. I did not say in my statement "partisan political," and I didn't intend that to be used. If I had intended it to be used, I would have said that.

I have worked with crown attorneys, and I would agree with the minister that, by and large, they are a very dedicated group and they do take a position of independence.

I was talking about political in the sense it was meant—and I do apologize for this part of it, because it was meant as a lead-in to my concerns about the Solicitor General and the Attorney General. Having sat up all night to prepare it, I got it out of context, and I would apologize for that. But in the present situation, there have been ample cases demonstrated where, in the political scene, it is difficult to separate them from the context of the politics of the day.

I am in this position: I had one personal experience with which I dealt as I saw fit, and I think quite appropriately. It stirred me to have a concern for the role of the crown attorney in the political context. I do not intend to name the situation or to deal with the persons involved, but it is in some essence a matter of record. I am of the opinion that the crown attorney must at all times be totally divorced from any political considerations. I cannot say more on that subject.

Hon. Mr. McMurtry: Mr. Chairman, as I say, I can't stress too much the seriousness with which I take any suggestion that the crown attorneys are being politically influenced in their decisions. The common and ordinary meaning of that fact to the public is that they are being in some way influenced in their decisions by the political or other fortunes of the party in power. That is the clear understanding most citizens would have.

Mrs. Campbell: If I had meant that, I would have stated it.

Hon. Mr. McMurtry: That's the clear meaning in the minds of most people. I would ask the member for St. George at this time, in fairness to the crown attorneys of this province, to state to this committee whether

she has any evidence of any crown attorney making a decision that was in any way influenced or dictated by the considerations for the political fortunes of this particular government, the government for whom they work.

Mrs. Campbell: I was not imputing "partisan politics" when I said "politics."

Hon. Mr. McMurtry: What do you mean by political influence then?

Mrs. Campbell: I am talking about the fact that you have, in one ministry, two functions. I am talking about the fact that you have cases where an Attorney General has a very difficult determination to make, and where, in the context of the whole political situation today, the crown must appear to be completely and utterly impartial.

As I say, I do not intend to give the instance to which I referred, because it has been closed. It was a case where I felt that sometimes you have young crowns, sometimes you have older crowns; in this case it was a young crown, and I dealt with that as I saw fit. I have seen the way in which a crown, in dealing with a police issue, for example, may on occasion be carried away. I think we have to guard against that with everything we've got. That was the lead-in to my very legitimate concerns about the two roles that should govern the administration of justice in this province.

Hon. Mr. McMurtry: I take it, Mr. Chairman—and perhaps we can leave it at this—that the member for St. George did not intend to suggest in any way that any of the crown attorneys of this province were in any way influenced in their day-to-day decisions by partisan political concerns.

Mrs. Campbell: I would have said so if I had meant that, Mr. Chairman. I certainly did not say that; nor did I mean it.

Hon. Mr. McMurtry: I think that is an interpretation many people placed on your statement, and I am glad we have had an opportunity to clarify this.

Mr. Warner: A question of the chair: If the Attorney General is back, do we meet next Friday?

Mr. Chairman: That is correct.

Mr. Warner: Not until then, right?

Mr. Chairman: We're meeting Thursday evening.

Mr. Warner: The justice committee is listed, but I understand the Attorney General has a previous engagement.

[1:00]

Mrs. Campbell: Can we determine the question I raised before? What happens to our time? It seems to be very fitting that that be raised, in the light of the Attorney General's concerns about the endless time that we could have. May I know whether, because of the absence of the Attorney General on those occasions, we do lose estimates time.

Mr. Chairman: No. You don't lose estimate time. We may be having estimates on Christmas Eve, but—

Mrs. Campbell: When I raised the question before we started, you will recall that you were unsure of that.

Mr. Chairman: No. I know you won't want to check the record, but I'm sure the record does show that what I told you was that, with the present loss of time of two sessions because of the Attorney General being tied up in other matters, we were going to get to the point where we were within two sessions, I believe, of the proposed proroguing of the House. I was simply concerned that we not lose very much more time or we would not finish these estimates.

On a matter of procedure, though, I would like to outline that, on my instructions, Mr. Forsyth has written to Mr. Wells stating that parent representatives from Park Public School Parent/Teachers Group appeared before the committee in June; that at that time they invited members of this committee to visit the school; and that, subject to a motion from the House, we would like to go on Wednesday. So Wednesday's schedule is tentative, assuming that Mr. Wells will introduce the appropriate motion.

As you know, the committee normally sits after orders on Thursday afternoon. However, there is a conflict. The resource committee has the acid rain debate in the evening, their normal sitting time being in the evening. We have agreed that, in order to allow members of that committee to be in the House for that debate, we would move our schedule for consideration of Bills Pr23, Pr24 and Pr29 to take place on Thursday evening.

On Friday, after orders, we will again resume the debate on the estimates of the Ministry of the Attorney General, on the first vote.

Is that clear to everyone? Any questions on that?

Hon. Mr. McMurtry: Mr. Chairman, before we conclude, if there are no questions, I repeat what I said yesterday. I expressed regret about the Deputy Attorney General's inability to be with us for the next three

weeks because of his important assignment in The Hague. I think it's fair to say that all of us in this room should take some satisfaction from the fact that the Deputy Attorney General of Ontario has been chosen for this very important role, to lead the Canadian delegation to The Hague on the issues, and to serve as vice-chairman of the special International Commission on Child Abduction. I know we would all like to wish him well.

Mr. Warner: If he would rather stay for the estimates, I would be quite happy to take his place.

Mr. Renwick: I would be the first to welcome him back if he solves the problem on which he has embarked.

Mr. Leal: Perhaps, Mr. Chairman, I might say just a word. I do apologize; I'm sorry I can't be here. In a way that is perhaps even unable to be expressed, I rather enjoy it. But the commitment was made at the time when we contemplated that the Attorney General's estimates would be dealt with in the spring. It didn't happen that way; so there was a forward commitment.

Mr. Renwick: Who will be taking your place?

Mr. Leal: At the table, Blenus Wright, who is the Assistant Deputy Attorney General, the senior one on the civil side.

Mr. Chairman: This is a question that I have been very concerned about and we have discussed before with the Attorney General. Members of this committee have also had correspondence with federal authorities on it. We wish you well, because there has been a great deal of suffering that has resulted. We wish you well in your deliberations.

Mrs. Campbell: The Attorney General didn't answer my question the other day when I asked him if the official guardian would be accompanying them.

Mr. Chairman: Will the official guardian be accompanying the deputy minister?

Mr. Leal: No, he will not. There will be only two Canadian delegates. I have the privilege of leading it, and the second one is a man from the Department of the Secretary of State, a civilian lawyer from Ottawa.

For the benefit of the members, Mr. Chairman, because they seem to demonstrate an interest in the topic, the Department of External Affairs in Ottawa at the moment is dealing with about 80 cases of abductions across international boundaries. That is a lot of trauma.

Mr. Renwick: Serious problems.

Mr. Chairman: No doubt we will find time, whatever vote we're on to deal with a full, comprehensive and interesting report on your return.

Mr. Renwick: Mind you, don't find any attraction for leaving this jurisdiction and taking a seat on the International Court of Justice.

Mr. Leal: Fortunately, Mr. Chairman, I don't have to face that. For the only one that was open, they appointed an American.

Mr. Renwick: Oh damn.

The committee adjourned at 1:05 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Attorney General



Third Session, 31st Parliament
Friday, November 9, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 11:52 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL
(continued)

On vote 1401, law officers of the crown program; item 1, Attorney General:

Mr. Chairman: I am going to call the committee to order. When we adjourned we were on vote 1401, item 1. At this time we have 16 hours and 37 minutes left in the estimates of the Attorney General.

When we adjourned, the minister was in the middle of his response to the NDP critic, David Warner. However, I have asked the minister, with the permission of the committee, to continue his remarks to Mr. Warner at a later point this morning.

Mrs. Campbell has come out of a sick bed and she really shouldn't be here. It is against her doctor's and family orders, but she wanted to bring up a matter that does pertain to this vote, so I am going to ask the committee to show patience and consideration for Mrs. Campbell so she may make her points and then she may get home to bed and to the tender loving care her husband and family will provide for her.

Hon. Mr. McMurtry: Obviously, we want to accommodate Mrs. Campbell, no question about that. I just wanted to make the point I really hadn't completed my response to Mrs. Campbell. She raised a number of important issues and I would like to deal with them as well as with some of the issues raised by Mr. Warner. I just didn't want you to think, Mr. Chairman, I had finished my response to the issues Mrs. Campbell had raised.

Mr. Chairman: Maybe Mrs. Campbell can raise the additional information she has, and then the Attorney General may respond to Mrs. Campbell and to Mr. Warner, and Mrs. Campbell will feel free to leave whenever she sees fit.

Mrs. Campbell: Thank you, Mr. Chairman. The reason I wanted to make a statement was because last Friday I was challenged to give the cases or the line of cases which had caused my concern. As of last Monday, the case which I think basically gave all of the implications was given to Mr. A. Campbell.

Other cases are now available for him, so perhaps we can then get on with a real understanding and study of what is happening with our crown attorneys in their pursuit of their duties. I have some of those cases with me now and others I will provide. I also understood the Attorney General had not concluded with his response to me. I felt I did not want to inhibit his responses by not being here, so I will be here as long as I can to hear the balance. I am sorry. Thank you.

Hon. Mr. McMurtry: Mrs. Campbell raised a number of interesting issues, and in view of the importance she placed on them and the importance I place on them, my response may not be as brief as I would like, but I will attempt to make it as succinct as I can. I have a number of notes here, Mr. Chairman, and the matters I am going to raise are not in any specific order of importance. I haven't attempted to priorize their importance or necessarily respond in the chronological order they were presented by Mrs. Campbell.

Mrs. Campbell raised an interesting and important issue of whether we should abolish the law of locus standi. I readily concede that cogent arguments can be made for the reform of the law of standing, that law which determines who has a sufficient interest to be heard by a court which directly defines what type of social disputes should be handled by the courts. But I would respectfully suggest that no one can seriously suggest abolition of standing as the option, or as a serious option for reform.

The English law commission, in its report on administration law remedies, proposed a new interest test, as did the Australian Law Reform Commission and the British Columbia Law Reform Commission in recent working papers. They recognize in certain areas, such as administrative and environmental litigation, it may well be desirable to revise our current standing rules to permit broader interests to be heard. The path of reform, and what we believe to be responsible and well considered reform, is the path I believe we are following in Ontario.

We want to really know how to reform the rules so as to promote greater public access to justice. In that respect, during the last three years, the Ontario Law Reform Commission has been studying the law of standing, together with the law of class actions, which it is considering at my personal request. I understand from the commission's annual reports, extracts from which I am passing to Mrs. Campbell, that the commission has discussed directions for reform and will be reporting within the next two or three years.

I am confident that the commission's report will be a comprehensive and practical document which will enable us to consider options for reform, to give public interest groups greater access to the courts in appropriate cases, to recognize the historic role of the Attorney General as the protector of the public interest and to safeguard the courts from burdensome, vexatious and unfounded litigation.

There are a couple of cases I can think of on environmental issues where I have granted standing where I have reason to believe some of my predecessors may not have. In any event, because of Mrs. Campbell's interest in this matter, I have a number of extracts that might be of interest to her and I will pass them to Mrs. Campbell. Oh, I'm sorry—those are not all just for you. There are copies for everybody. Nice try, Mrs. Campbell.

[12:00]

Mr. Chairman: It is a nice day to stay in bed reading, Mrs. Campbell.

Mrs. Campbell: I guess there is only one for me and the rest are—

Hon. Mr. McMurtry: I am sorry, there are actually just three pages there.

Mrs. Campbell stated that because the Attorney General failed to exercise his duties in the Kerr matter he was inhibited from exercising them with respect to the Munro incident. I don't think it would be helpful for us to review the Kerr matter further, other than to say I totally disagree with that observation. But since she described my handling of the Munro issue as "reprehensible," I would like to make it clear for the record what did occur in that matter.

First, Mr. Munro's conduct was fully investigated by the police and reviewed by crown law officers. Second, after a thorough review, several crown law officers concluded they could not recommend charges in the circumstances. Third, it was always our public position that, notwithstanding the fact that no charges could be laid, the conduct of Mr. Munro was most inappropriate. Fourth, a full report on Mr. Munro's conduct was forwarded to the Law Society of Upper Canada. Fifth, the conduct of Judge Mark, was actually referred to the judicial council.

So I say with the greatest of respect I think the Attorney General in those circumstances did everything reasonable that could be considered in the Munro matter, acting in an objective fashion.

I might deal at the same time with the matter of Judge Shime and Judge Addison. The member for St. George suggested that I should have taken action with respect to Judge Shime's appearance on behalf of his son. She also suggested I should challenge the statements made by Judge Addison, although she does not suggest the case before His Honour be reviewed or an inquiry be held. While I certainly do not support the conduct of Judge Shime, or the remarks attributed to Judge Addison, the real question is the role of the Attorney General when he disagrees with a judicial remark, or some aspect of judicial conduct.

The interpretation generally given to Judge Addison's remarks was that the accused Wardle was given preferential treatment because he was a publicly elected official. I said on that occasion in the Legislature if that is what was meant by Judge Addison—although it is still not entirely clear in my mind—it was obviously wrong for any judge to suggest any elected official or public figure be treated any differently from any other member of the public.

I come back to the question of what is the role of the Attorney General when he disagrees with a judicial remark. I remind the members of the committee that judicial discipline is not a function of the Attorney General. I have looked into these matters and have decided they are not appropriate cases for me to refer to the Judicial Council of Ontario or to the federal judicial council.

It is certainly open to the member for St. George or any other member to invite those bodies to deal with the matters if they really feel action in the nature of judicial discipline should be taken. I just reiterate it is my view that the action of Judge Shime was unfortunate and that the comment by Judge Addison was unfortunate. In my view, they do not require formal judicial discipline.

On family law matters, battered wives—

Mr. Renwick: May I interrupt for a moment? I'd like to have an opportunity at some point to comment briefly on some of the remarks made by the Attorney General. I certainly don't want to detain Mrs. Campbell here any longer than is necessary. I suppose it's best to go through it all and then

comment, rather than to be in and out on each particular comment.

Hon. Mr. McMurtry: I'd be quite content if the chairman was to invite comment on each of these matters, again depending on what would be convenient for Mrs. Campbell.

Mr. Renwick: I'm really in Mrs. Campbell's hands as well as the chair's.

Mrs. Campbell: I am here until the conclusion, I hope, of the response to me. I don't wish to have any special favours. I'm warning you, I may not hang out.

Mr. Chairman: We only have approximately 50 minutes left today, so perhaps the Attorney General can go through his remarks. I'll be happy to give you an opportunity then, Mr. Renwick, to go back over some of them.

Mr. Renwick: That's agreeable.

Hon. Mr. McMurtry: The member for St. George asked why I had not made a speech about battered wives. I can't recall at this time whether I've referred specifically to this problem in many speeches given over the past four years, but I want to make the observation that I think we're all aware the causes of wife battering are manifold; the lack of legal protection for wives, in my view, is not one of them.

Both the criminal law and the civil law provide basic protection for the battered wife. She may lay criminal charges under the code for assault. The Family Law Reform Act, section 65, makes it possible for a woman to sue her husband in a civil action for the tort of battery. The Family Law Reform Act, section 34, also permits a wife to obtain an order restraining her husband from molesting, annoying or harassing her. She can also make an application under the Compensation for Victims of Crime Act.

I believe the Law Reform Commission of Canada is proposing further amendments to the Criminal Code, and the federal Attorney General has indicated he will propose amendments to the Criminal Code to deal with some of the problems of family violence. We certainly will participate with a great deal of enthusiasm in supporting any amendments we believe may afford greater legal protection.

As was made abundantly clear at the conference on violence in the family sponsored by the International Society of Family Law in Montreal in 1977, wife battering—and I might add husband battering as well—is only one element in the continuum of violence in the family, for which the potential for legislative solutions is relatively minor. Some speakers at the conference suggested that nothing less than a complete social revolution is necessary to eradicate violence in the family.

In relation to the broad topic of nonintervention in the family and children's rights, the member for St. George asked why I "have stated that the provincial government will remain dedicated to a nonintervention policy in the parent-child relationship despite growing interest in children's rights."

Implicit in that question is the proposition that reluctance to intervene into the family somehow means a lack of concern for children's rights. That simply just is not so. The family, in our view, is the first and most effective advocate and defender of the rights of the child. To suggest government support of the family, as the fundamental social institution in our communities, is somehow detrimental to children's rights, I think is to ignore entirely the vast array of legislation that protects the rights of children.

The Ministry of the Attorney General is the ministry of family law reform and children's law reform. It is the ministry that will be providing separate legal representation for children and child abuse in child protection cases.

In the area of contested custody cases, the member for St. George asked how I could "ignore the situation with respect to children in contentious custody disputes." I say that children in custody cases simply are not being ignored. Before the end of this session I propose to introduce a bill to effect wide-scale modernization and reform of the law relating to custody in this province.

In the area of child abduction, Mrs. Campbell suggested I "continue to turn a blind eye to the tragedy of children abducted by a parent." Child kidnapping has been a continuing concern of mine since becoming the Attorney General. However, as anyone familiar with these cases will know, the problem of child abduction must be dealt with on many fronts. It must be dealt with at the provincial level, the national level and the international level. It must also provide both criminal and civil remedies.

Within Ontario, the child custody reforms I intend to bring in this session will include provisions to prevent kidnappers from using Ontario courts to obtain new custody orders. These reforms are based on the principles of the Uniform Extra-Provincial Custody Orders Enforcement Act which is enforced in most other provinces. On the national level, the Ontario commissioners to the uniform law conference of Canada are

proposing amendments to the uniform act that will strengthen it very considerably.

On the international level, as I've already stated, we are very proud to have our own Deputy Attorney General as the leader of the Canadian delegation to the Hague conference on private international law that is working towards international conventions on child abduction.

The next item I'd like to deal with very briefly is police and the use of firearms. The member for St. George referred to the use of firearms by police and indicated that in a conversation with a senior police officer she had been reminded that in earlier days any gun-play was automatically investigated thoroughly. She suggested there "should still be an automatic investgation, particularly when a killing has occurred."

Of course it is a fundamental principle of police management that any use of firearms by a police officer be thoroughly investigated. That always has been and still is a basic rule of police operations. I don't think there's any question but that the use of firearms by police is under more scrutiny and investigation than ever before.

Regulations under the Police Act provide for a mandatory investigation when a firearm is discharged. Various force regulations provide for reports any time a firearm is used in the line of duty. Where a death results, a coroner's investigation and a police investigation proceed simultaneously. If no charges are laid, the practice has been always to hold an inquest.

I stated publicly, before the end of the summer, that we were proposing and actually engaging in a total review of police procedures in respect to the use of firearms. I've had some consultation with some of the members of this committee as to the possibility of an appropriate chairman of the task force to head that review. It's something I want to talk to the member for St. George about. I had intended to speak to her about it before the end of this week, but I was in North Bay for a couple of days and haven't had the opportunity. I was looking for her in the House this morning and didn't see her there. Of course I understand the reason she was not there.

[12:15]

I'm trying to concentrate on the matters that were raised initially by the member for St. George. The next issue was in relation to burlesque dancers. The member for St. George asked why I was not intervening in the matter of the burlesque dancers who are being charged with public indecency. She indicated that "some of them have stated that they are willing to testify."

The member suggested I always protest we cannot implement the Criminal Code as far as the owners of the establishments are concerned. I just have to state that is not what I have said and is not really an accurate reflection of the facts. No such statement has ever been made by me about not being able to prosecute owners or managers. I have commented on occasion about the difficulty of obtaining such information, but no suggestion was ever made that we were unable to prosecute owners or managers. On the contrary, crown attorneys have been instructed to recommend to the police that such charges be laid when the evidence warrants it. I can inform the committee that there are charges outstanding in Metro already against managers of some of these establishments.

On the important issue of child pornography, the member for St. George asked why she had not heard anything about my cracking down on the use of children in the field of pornography. I know I have spoken out on this issue on a great number of occasions. My major concern in relation to pornography has centred on children, the abuse of children in making such trash and the availability of pornography generally, but particularly its accessibility to impressionable young minds.

I would remind the member for St. George it was at my request that a joint-force police task force, known as project P, was formed several years ago. Much of its investigatory work has focused on children and pornography. There have been a number of successful prosecutions and others are currently before the courts.

The next item I want to deal with is in relation to the member for St. George's comments in respect to my role vis-à-vis the Ombudsman, with specific reference to a matter involving the Health Disciplines Board, which was referred to, as well as to some correspondence with the chairman of the select committee on the Ombudsman.

In the Health Disciplines Board matter, the board objected to the jurisdiction of the Ombudsman to deal with the complaint against it, raising a serious question as to the Ombudsman's jurisdiction, which was of importance not only to the board, but to all similar tribunals. The Ombudsman applied to the Supreme Court, pursuant to section 15(5) of the Ombudsman's Act, to have the issue determined and gave notice to my office of that application.

In the true tradition of my office, when the interpretation of important legislation is at issue, and in accord with the practice followed

by Attorneys General in other common-law jurisdictions when a serious question as to the jurisdiction of the Ombudsman has arisen, my office participated in the argument of this case, ensuring that all possible arguments were brought before the court and that the decision establishing the Ombudsman's jurisdiction was rendered by the highest court of the province, the Court of Appeal.

This practice has been followed in particular by Alberta, Saskatchewan, Nova Scotia and Australia. Although my office and the Ombudsman disagreed as to the extent of his jurisdiction in the circumstances of this case, this matter has been resolved favourably to the Ombudsman but, most importantly, by a considered decision of the Ontario Court of Appeal which will be of great assistance to all in the future.

On this matter I can only state that not only have I followed the tradition of Attorneys General but in so doing have ensured that the Ombudsman's office has been strengthened and the jurisdiction in this type of case resolved. I have a list of a number of cases where an Attorney General in other jurisdictions has participated to make submissions with respect to the Ombudsman's jurisdiction, and where the Attorney General has in fact taken a position adverse to that of the Ombudsman. I can give you all of these citations now or privately if you're interested.

Mrs. Campbell: Could you indicate the ones where the Attorney General led rather than participated?

Hon. Mr. McMurtry: These are all cases in which the Attorney General took a position adverse to that of the Ombudsman. Would you like me to read these cases into the record right now?

Mr. Renwick: Perhaps if we could have a list of them that would be fine.

Mrs. Campbell: Circulate it to the committee.

Hon. Mr. McMurtry: I would be happy to do that. I think it the appropriate time to deal with the opinion that was rendered by me to the chairman of the select committee on the Ombudsman.

I gather the chairman has a pressing engagement elsewhere in the world.

Mr. Renwick: Similar to your deputy's.

Hon. Mr. McMurtry: I'm sure we all feel a little envious that he was selected instead of any of us.

I won't go into this in great detail. This was touched on, of course, by the member for Scarborough-Ellesmere (Mr. Warner). In Mr. Warner's statement, which referred to the work of the Ombudsman in the select committee concerning the Workmen's Compensation Board complaints, he stated: "If your legal opinion is current, that work is down the pipe and the Ombudsman might as well forget working on WCB complaints."

I made it very clear when I appeared before the select committee on the Ombudsman that my view was that obviously the resolutions of the committee, particularly if they are adopted by the House, must be given great weight and, as a matter of practical human affairs, they undoubtedly would be given great weight by the Workmen's Compensation Board. There was never any suggestion to the contrary. My opinion was directed to the very important legal issue as to whether or not a resolution of this committee adopted by the House in effect would interfere with legislation passed by the Legislature.

I just make the observation here that counsel for the Ombudsman on that occasion, although he'd given a contrary legal opinion, certainly made it very clear that he did not want to debate the two legal opinions. I don't think there is any serious issue as to the correct legal opinion, and inded the counsel for the Ombudsman agreed fundamentally with our legal opinion given at that time.

What concerns me about this issue is some of the members of the committee may have lost sight of the role of the Legislature in passing legislation. I am somewhat shocked that members appear to be taking a rather cavalier view as to the importance of legislation passed by this House. To suggest that legislation, passed by the House, the effect of which could be varied or interfered with by simple resolution of the House, to me represents a fundamental lack of understanding as to what I regard as the basic sanctity of legislation passed by the House, as opposed to resolutions of the House.

I think the argument being made really strikes at the heart of the parliamentary system. I have to register some degree of shock that it would still be advanced in this committee. It certainly does, as I say, represent a fundamental misunderstanding of the role of any parliament. I'd be happy to discuss this matter at some length. I don't know whether it's the appropriate time or not. It's a matter of such fundamental importance to the parliamentary system.

When parliament of the province vests a body—in this particular case Workmen's Compensation Board—with specific responsibilities given to it by statute, it has a statutory responsibility to carry them out. To suggest that responsibility be compromised, the statutory direction they receive be sub-

stantially interfered with simply by resolution of the House as opposed to specific legislation amending the act or legislation which gives them their statutory responsibility, in my view does nothng less than strike at the very heart of the role of parliament in the passing of legislation. I think the member for Scarborough-Ellesmere should really reflect on the importance of that principle.

Mr. Warner: I understand the principle. It's the board that doesn't understand the principle. Because it wouldn't uphold its responsibility as set out in the act, a committee of the Legislature had to do something. The Ombudsman attempted to do something and wasn't able to. The committee here, the members, attempted to assist the Ombudsman.

From your remarks, I take it the efforts of the members of the assembly will be frustrated as well. The board will continue to defy the legislation and will continue not to uphold its responsibility. You're not helping it.

Hon. Mr. McMurtry: The member for Scarborough-Ellesmere continues to misunderstand the situation.

Mr. Warner: No, I understand it perfectly.

Hon. Mr. McMurtry: Nobody has suggested for a moment that the Workmen's Compensation Board should in any way be encouraged not to—as I've said before the select committee and the Ombudsman—no one has suggested for one moment the Workmen's Compensation Board should do anything other than give a resolution of the committee, particularly when it's adopted by the House, very great weight and very great importance. Obviously, the work of the committee will continue to be important in that respect.

[12:30]

But again, in the final analysis, I'm sure the board in many cases will be influenced by the opinion of the committee—and that is quite properly so—in carrying out its statutory responsibilities. But if the board members are of the view they cannot, in good conscience, carry out their statutory responsibilities and accept the particular resolution of the committee, then of course, in my view, their statutory duties are paramount.

I think the issue, with great respect, Mr. Chairman, has been blown somewhat out of proportion. I'm not as close to this issue as I'm sure many members of this committee are, and I respect that. Certainly every indication I've had is that the Workmen's Compensation Board will give great weight, as it properly should, to the deliberations of the select committee on the Ombudsman.

I think it is a gross overstatement to suggest the work of the select committee, because of our legal opinion which has not been seriously challenged, is down the drain or is of no value. I just want to go clearly on the record as stating the work of the select committee is of great value and I'm confident it will be so regarded by the Workmen's Compensation Board.

Mrs. Campbell: Could I just say to the Attorney General that he doesn't realize that at this point in time it would appear that he is correct, in that, as a result of the action of the Minister of Labour we have had some clear indications to the Workmen's Compensation Board of the way in which the minister reviews that? But does the Attorney General not understand that when we have a situation such as that, where the will of the Legislature has no opportunity of gaining expression, this then means what we have, as I see it here, is an Ombudsman together with the committee who is, in the final analysis, in the hands of the government and not in the hands of the Legislature?

Hon. Mr. McMurtry: No, in the final analysis the Ombudsman is in the hands of the Legislature, the creature of the Legislature. The Legislature is the final authority as to what the role of the Ombudsman will be, and what the role of the Workmen's Compensation Board will be.

Mrs. Campbell: Then there ought to be a slight change to the committee.

Hon. Mr. McMurtry: Perhaps some of the members can enlighten me if I am unaware of a fact that exists, but I am not aware of any request at this time by the Ombudsman or his office to amend either the Ombudsman's legislation in this respect or the Workmen's Compensation Board legislation in this respect. I'm not aware of the Ombudsman expressing any view that the work of his office has been frustrated by reason of any lack of amendment.

If my information is not correct in that regard I would certainly like to know if that is or is not the case. I do have some difficulty with the suggestion that the Ministry of the Attorney General or the government is in any way not supportive of the work of the Ombudsman or is trying to frustrate the work of the Ombudsman. In my view, nothing could be further from the truth, really.

Mr. Warner: If that's the case then, will you undertake to make sure that the statutory requirements, which the Workmen's Compensation Board is supposed to meet, will actually be met—that it will carry out its responsibility?

Hon. Mr. McMurtry: Certainly, it seems to me from remarks that were just made by the member for St. George, she was satisfied the Minister of Labour (Mr. Elgie) was resolving the issue and carrying out his mandate effectively in this regard.

Mr. Warner: But you see, you can't play it both ways. The situation came to such a problem because under the act certain people were entitled to compensation and didn't receive it. When investigated by the Ombudsman's office, the Ombudsman agreed those people were not receiving the proper compensation under the act.

The Ombudsman still couldn't effect the change to get the board to live up to its act and recognize the claim, so it had to come to the assembly. I respect the fact you put forward a legal opinion. The legal opinion, obviously in this case, is of no great assistance to us because now the work's done and the board can very well say: "Sorry, we're still not going to recognize the claim. We don't care what you've said, we're not going to recognize the claim. That's the end of it."

I would assume they would give great weight to whatever has come from the assembly. Does that mean we have to start funnelling the thousands and thousands of cases through the Ombudsman's office and then to the select committee? That's absurd.

Hon. Mr. McMurtry: I understand from the Minister of Labour the whole relationship in so far as the mechanics of the matters are concerned, vis-à-vis the Ministry of Labour and the Ombudsman's office, is under thorough review in order to provide for a more expeditious way of dealing with these matters.

I know the minister is looking at it independently and the Ombudsman's office is looking at it, with a view to making recommendations to streamline the relationship in the interest of the members of the public who are affected by these decisions. I think there's a general recognition a lot of these issues could be expedited. That view is shared by both the Ombudsman's office and the Minister of Labour. I understand they're working in that direction

Mr. Kerr: When Mr. Warner says "recognize" does he mean accept or deal with the claim?

Mr. Warner: On the ones that have come through the committee or the Ombudsman?

Mr. Kerr: Yes.

Mr. Warner: I mean they should be then accepted. I always took a position the Ombudsman in all matters had a fair impartial and objective view, and having done the investigation and come to a conclusion, that was the final word. In the case of the board, we've suddenly found out that wasn't the case.

The observation based on a fair, impartial and objective investigation doesn't mean there will be a successful conclusion to it. That's the part that bothered me at the time.

I then felt—and I think a lot of members did too—that when it went to the committee it would have some power in terms of law, in terms of the Workmen's Compensation Board having to respond to the statutory powers it was given through its act. The legal opinion is to the contrary and that concerns me.

That's why I made the remarks. If that's the case, if the legal opinion is correct, then of what value is it for members of the assembly to sit down and review an opinion from the Ombudsman? It seems to me to be non-productive. That's why, if the Attorney General is concerned that I don't quite understand the statutory powers of the Workmen's Compensation Board or appreciate the force of law it has, I would hope he would also have a concern if the act and the powers given the board are not being upheld, if the board isn't taking the act seriously and enforcing it the way it's spelled out. I hope he would take that into consideration and do something about it and give us a legal opinion on it.

I think that's the position the members on that committee are in. I'm not on that committee but some of my colleagues are, and I'll tell you, they're very frustrated over that whole experience. Some of them felt as though their work was for nothing.

I don't know whether you intend to try to resolve that matter in any way, but it's a serious problem. If it isn't corrected in some way or other, it's a serious problem. There's no point in trying to waste members' time, or the Ombudsman's. There's no point in saying to the Ombudsman: "You can be fair, impartial and objective in all matters, but in those which are WCB claims your conclusions are not going to be acted upon," or "they may not be acted upon." I guess that's my frustration.

Hon. Mr. McMurtry: I don't think there's anything I can usefully add to what I've said. The concern of the committee is well known to the Minister of Labour. I think he will be able to resolve these concerns. If I can be of assistance in the process, I will be of assistance.

Mr. Warner: Fair enough.

Mrs. Campbell: I wonder if the Attorney General, while he is being of assistance in that area, would be prepared also to respond to the very real concerns of that committee in that it has not been able to bring forward the rules with the appendices which it is required to do because it was awaiting the decision of the court in the Health Disciplines Act matter.

As you know, we wanted to attach to our regulations the changes proposed, a list of those boards, commissions and whatever over which, with the consent, if you like, of the government, the Ombudsman would be deemed to have responsibility. I believe that matter is outstanding. I do not recall that there has been any further correspondence with the Attorney General. There may have been and I may not have seen it.

Hon. Mr. McMurtry: I know there have been discussions between the legal staff of the Ombudsman's office and some of our law officers with respect to possible amendments to the legislation.

Mrs. Campbell: But our committee is involved in that too, and again we seem to be on the outside.

Hon. Mr. McMurtry: I can't tell you at the moment just where these discussions stand, but before the end of these estimates I'll try to have that information for you.

Mr. Warner: Were there any more items you wanted to discuss?

Hon. Mr. McMurtry: I think I'm pretty well finished. Mr. Warner helpfully outlined a number of issues he was concerned with, which, as I said earlier, was of great assistance. I think we can deal with most of those under the specific votes, unless you'd like me to deal with any before we get into the votes.

[12:45]

There was only one other thing; for example, questions asked with respect to Renfrew county, the backlog in Hamilton, et cetera. These matters will be obviously gone into in great detail on the individual votes. The only other item I intended to deal with right now, as far as Mrs. Campbell is concerned, was with respect to the Bulpip inquest.

I think Mrs. Campbell's criticism was if an assistant crown attorney has been consulted by the police in relation to a particular incident such as a death as a result of a discharge of a police firearm—that that same—

Mrs. Campbell: I am sorry, that was not a police firearm.

Hon. Mr. McMurtry: Perhaps I'm a little confused. That was not a police firearm?

Mrs. Campbell: No, it was not.

Hon. Mr. McMurtry: I'm perhaps a little confused on that, but the issue in any event—and quite frankly, I forget the circumstances of the Bulpip death—I do recall was the crown attorney who advised with respect to laying or not laying criminal charges should not be the same crown attorney who conducts the inquest. I think Mrs. Campbell's concern was if the crown attorney advises against the laying of charges, he or she has formed an opinion which would perhaps influence him improperly or unfairly with respect to the conduct of the inquest and it therefore should be another crown attorney. As I recall, that was the issue.

Mrs. Campbell: That was part of it. That wasn't the whole issue.

Hon. Mr. McMurtry: That was the issue as I understood it. I just want to make it clear that in cases where there is death, obviously it's likely more than one crown attorney is going to review the matter in any event, to determine whether or not charges are laid. Certainly, it's going to be reviewed by more than one person and by a senior member of any particular office.

I just can't agree with the fact the crown attorney who has been involved with the police in advising them in relation to their initial investigation as to whether there should or should not be charges laid, should be automatically excluded from conducting the inquest. I really think, with great respect Mrs. Campbell, the wise utilization of crown resources really does necessitate using a crown attorney who has become very familiar with the case, unless there are extraordinary reasons to give it to some other crown attorney which does happen. In any event, if it's a particularly complex case it seems to me to be a wise utilization of resources to have that same crown attorney, who has become very familiar with the evidence, to conduct the inquest. I think in that way the inquest jury is more likely to have a fuller presentation of the evidence.

There may be individual cases where it might, for certain reasons, be advisable to have different crown attorneys but as a general rule, I really think the inquest juries are more likely to have a better, fuller presentation of the evidence if it's a crown attorney who has been involved at an early stage.

In so far as the other issue is concerned, you also indicated it was up to the Attorney General to clarify for the benefit of the police, the force which is permitted in self-

defence, so there is some kind of uniformity in the conclusions reached. Those were the notes I made.

Mrs. Campbell: What I asked was in this particular case would you get us a copy of the transcript, because there is a series of questions—

Hon. Mr. McMurtry: I'll see if the transcript is available.

Mrs. Campbell: I'm sorry, I'm being called for.

Mr. Chairman: Thank you, Mrs. Campbell, and I'm sure we wish you a more healthy weekend and pleasant recovery. I believe the Attorney General had a statement he wanted to make.

Hon. Mr. McMurtry: I don't. I think these were the only matters I was going to raise in response unless any of the members would like me to deal with any other issues before opening it up.

Mr. Chairman: Mr. Renwick indicated to me that he wished to raise some matters arising out of your initial statements. So I'll give Mr. Renwick the floor.

Mr. Renwick: Mr. Chairman, if it's in order I'm going by inclination, wish and the demands of an appearance in court at 1; squash court, that is—

Hon. Mr. McMurtry: That's a good statement. I was going to express my interest in the fact that our courts were sitting at 1.

Mr. Renwick: I want to speak for only five minutes at the very most—I have my watch out in front of me. I want to express my very deep concern about the role of the Attorney General in the province. I don't know of any occasion where I've had a sense of disquiet about the role and the way in which the minister is functioning within that role.

Hon. Mr. McMurtry: I wonder then—I think in fairness to the Attorney General—is it 12:53 now? In view of the importance of Mr. Renwick's statement, I'd hope I'd at least be given an opportunity to respond to it today rather than having my response delayed until next week. I think that in basic fairness—

Mr. Renwick: Alternatively I could wait until next week.

Mr. Chairman: I think that might be more appropriate, Mr. Renwick.

Mr. Renwick: I want to clarify what it is so you could perhaps be thinking about it a little bit in the course of that time. I'm not in an argumentative or cantankerous or querulous mood about the matter. I am deeply concerned about the role.

I do not believe in rehashing a large number of the same areas that have been gone over by both my colleagues from Scarborough-Ellesmere and by the critic for the Liberal party, the member for St. George.

Hon. Mr. McMurtry: Are we not really getting into it? If we're going to deal with it, I just want an opportunity to respond. What you're saying, in another way, is, "I'm not going to make a statement but I'm going to tell you what my concerns are generally."

Mr. Renwick: No, I'm not going to tell you about my concerns generally. I want to be speaking to the role of the Attorney General in the light of the comments which the Attorney General has made on other occasions, the information which he furnished to us a year ago and the various statements of various Attorneys General about the role, including your own statement. That's the area I would like to deal with.

If it's agreeable with the committee, and because time is pressing on us, I would like to defer my remarks until the next meeting of the committee when I promise to be, I hope, both brief and accurate. That would give the Attorney General time to reply to them immediately.

Hon. Mr. McMurtry: That's satisfactory to me. As I say, I don't want it to be misinterpreted by my interjection that I want to be argumentative either. I certainly welcome Mr. Renwick's contribution to this debate and will look forward to it.

Mr. Chairman: The committee recognizes both Mr. Renwick's and the Attorney General's co-operation but I'm going to allow Mr. Warner to have the next question.

Mr. Warner: As I mentioned on the first occasion, I want to give the Attorney General a list of items that I wished to pursue and that's the list I'll try to stick to. Next time when we sit, time permitting, I would like to get into a very definite discussion about support payments—the support payments that are outstanding and don't seem to get collected. I take it there hasn't been any real pressure from the Attorney General's office. It is left to the Ministry of Community and Social Services and I would like to discuss that.

I'd also like to correct the record on another point. Last time I said that so far the articles about free trips for judges had appeared only in Zena Cherry's column. That is not true. I made the blunder of leaving out one of the eminent journalists at present in our midst hiding in the corner over there.

He had also written a column. I would like to deal with that issue very directly and I would like to have a nice discussion.

The third item I had jotted down—I certainly don't want to occupy all of the time—was the Daniel Hill study and what time frame we are looking at. I must confess your briefing about that was not much help to me in terms of royal commissions; that is under the first vote. It mentions there were eight; I would like to know which ones they were. I do notice you are anticipating a decrease in the amount of money spent, which sounds like a good signal. But I would like to know what royal commissions are at present under way, which ones are being concluded, or should be concluded, and some accounting of the money.

Perhaps time will permit us to deal with more than that, but those are the three items I thought we would deal with. I wanted to mention that to you in advance so that perhaps we could save some time.

Hon. Mr. McMurtry: What hours are we sitting next week, Mr. Chairman?

Mr. Chairman: Wednesday morning, Thursday evening and Friday morning.

Hon. Mr. McMurtry: I have a problem with respect to Thursday evening. I have a long outstanding commitment to go to Listowel to speak to a group there. It is not a political meeting.

Mr. Chairman: Our problem, Mr. Attorney General, is very simply this: with the various interruptions we have had with this committee and your estimates, if the House adjourns on December 14, adding up the amount of time I am projecting for these estimates, we will not finish your estimates. Perhaps you and I and the clerk can meet privately and we will go over our schedule with you and convince you that perhaps the estimates on Thursday night are—

Hon. Mr. McMurtry: Is there any possibility of sitting Wednesday afternoon or Thursday morning?

Mr. Chairman: Wednesday afternoon is a possibility. I can speak to the government House leader and get permission.

Hon. Mr. McMurtry: I'm sure I'll be sorely missed in cabinet, but I'd be prepared to sit on Wednesday afternoon.

Mr. Warner: The chairman should be aware, also, there may be a request coming for the committee to set aside some of the time for the Attorney General's estimates to deal with compulsory auto insurance.

Mr. Chairman: The chairman is very aware of that. I am very concerned about it and I would want to discuss it with the committee, but my recommendation would be that perhaps the select committee should be dealing with that rather than this committee. That is something that will have to be decided upon by the House leaders, but there is no way these estimates can be completed if we have to deal with that bill.

My understanding is the Minister of Consumer and Commercial Relations (Mr. Drea) is very strong in his opinion that he wants that bill through the House, by December 1 he has even said. I think we can straighten out these matters at the House leaders' meeting and not take up the time of the committee, Mr. Warner, but I appreciate your concern. It is something the House leaders and the minister and the committee will have to decide on.

Mr. Warner: It's not for the House leaders to decide. When it is sent to a committee, then the committee will decide what its work is.

Mr. Chairman: I agree, but I must report that back to the House leaders and try to arrange a compromise.

The committee adjourned at 1 p.m.

ERRATUM

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Speaker: Honourable John E. Stokes

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 10:03 a.m. in room 151.

ESTMATES, MINISTRY OF THE ATTORNEY GENERAL
(continued)

On vote 1401, law officer of the crown program; item 1, Attorney General:

Mr. Chairman: We have the problem that the Attorney General shared with me late last night and, therefore, I haven't been able to contact any of you, that because of the unforeseen circumstances to the west of Metro with the derailment, the Attorney General is going to have to leave in about an hour to be back out there and take care of matters that are serious and quite pressing. We can appreciate the amount of time he has spent during the last few days out there.

Mrs. Campbell: Excuse me. Can I ask if it is the Attorney General who will not be present, or the Solicitor General who will not be present?

Mr. Chairman: The Attorney General in his capacity as Solicitor General will not be present and, therefore, the Solicitor General will be present out there and the Attorney General will be absent here in one hour's time.

We also have the problem that Thursday evening, which was scheduled for this committee, we will not be able to have the Attorney General present either.

Mrs. Campbell: Could I know whether we have a commitment that we are going to finish the estimates and we will not be sitting on December 23?

Mr. Chairman: I think, Mrs. Campbell, one of the ways in which we can get on with it would be to ask the government House leader to move a motion that would allow us to sit Wednesday morning and afternoon of next week, and that would give us a considerable number of hours and perhaps we can catch up, with the understanding we would not sit on Thursday evening.

Mrs. Campbell: I had already tried to accommodate. Mr. Renwick wanted to get on the last time and didn't. I am prepared not to make any further comment on the responses, other than the question that was put more or less privately to the Attorney General about the law of standing, and yield to Mr. Renwick so that he can push on.

Mr. Chairman: We do have problems with the Wednesday sittings, and the problem is that we may get some criticism from the government members, that they will have trouble attending on Wednesday. That is a problem perhaps the Attorney General may want to discuss with some of his colleagues.

Mr. Renwick: I wanted to speak to the question of the timing of this committee's hearings. Our committee hearing times are set. I would like to know from the Attorney General whether, barring unforeseen circumstances, he is going to be available from now until the time runs out for these areas. Is his schedule such that we can plan our work that way, barring unforeseen circumstances?

Hon. Mr. McMurtry: It is certainly my intention. I mentioned last week I had one longstanding commitment in Listowel tomorrow night, and I must admit I wasn't sure until a few moments ago just whether or not I was going to have to cancel that. I certainly haven't scheduled any other engagements that would in any way interfere with the progress of the estimates, apart, as I say, from the uncertain situation out in Mississauga which as of a few minutes ago was still rather uncertain as to just what is going to happen in the next several days. But, again, I am sure I can work out my timetable out there in such a way as to cause minimal interference. We are really at a fairly critical juncture right now, and this is why we have a very important meeting at noon.

Mrs. Campbell: May I ask what inference there was? Why would the government be critical of us? As I understand it, we have been trying to adjust to the Attorney General's schedule.

Mr. Chairman: I didn't say "the government." I said some of the government members may find it difficult to attend on Wednesdays.

Mrs. Campbell: Oh.

Mr. Chairman: Our problem will be that Mr. Drea's bill is likely to be referred to us. With the government whip here now, maybe he would have some comments on that.

Bud, we are concerned about the scheduling of this committee. The Attorney General cannot be here in another hour from now, and therefore we are going to lose some time this morning. We obviously can't sit this afternoon because he is tied up.

Thursday evening, which we had originally scheduled for this committee, to accommodate the standing resources development committee, we cannot sit because the Attorney General is tied up and we understand it is likely the government will refer Frank Drea's bill to this committee. Our problem is one of scheduling.

I pointed out that some government-side members might have difficulty attending the committee if we ask for sittings on Wednesday morning and afternoon for the next couple of weeks, and we weren't sure as to that being a really difficult problem for you. Maybe you would like to comment.

Hon. Mr. Gregory: The only difficulty it gives me, Mr. Chairman is that I was supposed to speak to the Attorney General last night about the estimates, but didn't see him.

Mr. Chairman: Can you speak into a microphone?

Hon. Mr. Gregory: I hadn't expected to be a delegation, Mr. Chairman.

Mr. Chairman: Sit beside Mr. Renwick.

Hon. Mr. Gregory: No, it's all right. I like it here. The red light is on. I know this microphone is working, as opposed to the ones in the House.

There is really no problem with scheduling the justice committee to sit next Wednesday afternoon, except that I have had some conversations with other members opposite, the chairmen of other committees, and refused to allow or refused to co-operate in allowing select committees to sit at times when the House was sitting, or at times other than what is normally slotted for them, in particular, Wednesday. So I would kind of look a little two-faced if I said, "I agree with justice sitting, but I don't agree with Hydro sitting."

Mrs. Campbell: We are not a select committee.

Mr. Chairman: We are not a select committee; we are a standing committee.

Hon. Mr. Gregory: Yes, I realize that.

Mr. Chairman: We have definite obligations to get through certain things by a certain schedule.

Hon. Mr. Gregory: I agree, Mr. Chairman, if you will agree to support me when I have to argue with the chairman of the select committee on Hydro that I haven't enough members to satisfy the Hydro committee on a Wednesday. We can do justice, because it is different members.

Mr. Chairman: Are there problems with, say, a Tuesday then?

Hon. Mr. Gregory: Yes, there would be.

Mr. Chairman: Or a Monday?

Hon. Mr. Gregory: I am quite happy with Wednesday. I think you get my point. What I am saying is I don't want to appear two-faced, that's all, and not consistent. If you want to sit Tuesday all day, I am happy. Our members are different on justice from those on the other three major committees, so Wednesday is not really a problem.

Mrs. Campbell: Let's try for Wednesday, because otherwise we will have to sit in January to complete the estimates.

Mr. Chairman: I will ask our clerk to convey to the government House leader and the other two House leaders the wishes of this committee to sit all day Wednesday for the next two weeks, so that we might deal expeditiously with the—Mr. Warner?

Mr. Warner: Could I clarify that? When you say "sit all day Wednesday," do you mean both morning and afternoon, for the purpose of the insurance—

Mr. Chairman: Of these estimates.

Mr. Warner: For the purpose of the estimates?

Mr. Chairman: Yes.

Mr. Warner: Until such time as we have completed them.

Mr. Chairman: We can't deal with Mr. Drea's bill until it is sent to us obviously.

Mr. Warner: I am always anxious to co-operate. I just express a little uneasiness about the fact that the government has had two years to bring in the compulsory insurance, and then suddenly we see it, and are told it has to be through by December 1, because that is when the new licences are issued. They have had two years. I would have expected then the legislation would have been introduced the first day of sitting in October.

Hon. Mr. Gregory: What has that got to do with the argument? I don't know.

Mr. Warner: Because now we are being asked to compress the time—

Hon. Mr. Gregory: Warner, you never change.

I am agreeable to Wednesday, Mr. Chairman.

Mr. Warner: I am quite happy to sit in the afternoon. I am always happy to cooperate and have the opportunity to discuss the items, but I am just making the observation that we are being asked to do this partly because the legislation wasn't in front of us in October when it should have been presented.

Mr. Sterling: That wouldn't make any difference.

Mr. Warner: Sure, it would.

Mrs. Campbell: The Attorney General has not been able to be present with us. He isn't going to be able to stay all morning, and he isn't going to be here tomorrow night.

I'm viewing it strictly from getting through the estimates. That's what I'm looking at. The bill will have to stand down until we finish the estimates, from my point of view.

Mr. Chairman: The Attorney General has made another suggestion that we also sit this coming Friday afternoon. Are there any comments on that? Whenever we do that we get comments from people such as Norm Sterling who has a long drive.

Mr. Sterling: The out-of-town members.

Mrs. Campbell: I have no objection.

Hon. Mr. McMurtry: I just suggest perhaps this Friday afternoon, and it may be that some of the government members or most of them can't be here, but we could have somebody here from Metro, and I think the opposition is mostly Toronto-based in so far as those who have been active in this committee are concerned.

[10:15]

Mr. Chairman: I wonder if we can make a compromise and agree that we will sit on Friday, with a recess only for lunch, from 12 to one, and that we will adjourn at three o'clock on Friday. That will accommodate Mr. Sterling and other people who may have a long drive. That would get us in an extra couple of hours. Is that reasonable?

Instead of sitting until one o'clock, we would recess from 12 to one for lunch, and then reconvene from one until three o'clock. That would give us an extra hour.

Mrs. Campbell: Could we decide what we're going to do, and then get on with this morning, in view of the fact that the Attorney General must of necessity, as Solicitor General, absent himself from this committee after an hour, and let Mr. Renwick go on because he's been waiting to get on? This seems to be a waste of time, with the greatest of respect.

Mr. Chairman: I'm trying to get some consensus, Mrs. Campbell, so we don't waste any further time, and so that members of the committee don't say I have somehow made arbitrary decisions with the Attorney General.

Unless I hear any other objections, I will ask our clerk to request of the House leader that we sit next Wednesday, all day, instead of just in the morning, and that this coming Friday we be given permission to sit in the afternoon, and it is understood that we will sit from 10 o'clock until 12, and from one o'clock until three o'clock this coming Friday, provided an appropriate motion is made. Is that understood? Fine, it's agreed.

Mrs. Campbell: Could we get some statement that they will not flood the place with statements on Friday, so we don't get any sitting time at all?

Mr. Renwick: Mr. Chairman, I wouldn't want anybody to be under the illusion that I've been champing at the bit to have comments about the Attorney General. All I am anxious about is that the remarks I want to make are pertinent to the first vote and not to other votes. It was my concern that suddenly I would find, in the discontinuity of this committee's sittings, that vote number one had passed and I wouldn't be able to make my comments.

I'm in the hands of the committee and of the Attorney General about when my remarks are appropriate, other than the constraints of the first vote. I trust the Attorney General will accept my remarks. I don't mean either agree with them or be happy about them, but I want him to accept them with the goodwill I feel towards him and towards the position he is in.

My remarks are directed specifically to the role of the Attorney General, and the present attitude, over a period of time now, of the present incumbent of that office. It causes me considerable disquiet about what is happening to the administration of justice in the province because of what now appears to be an incompatibility about the attitude of the Attorney General and the role he is called upon to perform in our government.

I am going to refer to half a dozen matters that have led to this sense of disquiet. I'm not referring to them in relation to having a discussion about the facts of those matters; about whether I'm right, or the Attorney General is right, or whether we're both crazy, or whether there is some other way in which those matters can or should

be dealt with. At the appropriate time during the estimates I would like to be in a position where we could deal with the actual facts of them. I am mentioning and referring to those particular matters simply because they reflect in me the attitude of the Attorney General, which has caused significant disquiet.

I was surprised and impressed with the remarks of the critic of the Attorney General, the member for St. George, and her call upon you to resign. I was aware of the comments that my colleague, the member for Scarborough-Ellesmere, as critic for the New Democratic Party was going to make with respect to the Attorney Generalship, his holding of two portfolios, and the underlying concerns that were expressed.

The opening and closing remarks of the Attorney General confirmed my disquiet and reflected the attitude I believe is illustrative of the present incumbent of the office over a period of time, and which I think has to be sorted out. I trust the Attorney General will sort it out and will take the remarks I make in the atmosphere in which I make them, because of a concern we all share about the administration of justice in Ontario.

In his closing remarks, the Attorney General took it upon himself to deliver a lecture. I don't know who it was addressed to; I don't know what prompted it. All I know is that the very terms of that homily, and the attitude it reflected, confirmed in my mind that the Attorney General has to consider seriously whether or not he should any longer continue in the role of the Attorney General of this province.

Let me put it this way. I have read, and we have discussed in philosophical jurisprudential terms, the role of the Attorney General. A year or so ago the Attorney General gave us three or four articles that outlined the role of the Attorney General as it has developed over time. He himself, if I recall correctly, made an address, I believe it was in New Brunswick, in which he discussed the role of the Attorney General as he saw it.

The way it has distilled to me, firstly as a member of the assembly and secondly as a member of the assembly coming to this work who happens to have the disabilities and benefits of a legal background—I emphasize disabilities as well as the benefits, from the point of view of what I want to put across—I know of no more sensitive role in the whole structure of our governing institutions in the broad sense than the role of the Attorney General. I know of no more sensitive role.

I don't believe the sensitivity of the Chief Justice of Ontario or the Premier of Ontario or of any of the other institutions of our province compares with the sensitivity that this role requires. I don't have the poetic capacity to deal in metaphor and illustrate it clearly to the Attorney General but I see him as the centrepiece, where he relates—almost like a wheel and the spokes of a wheel—to all the areas of immense concern to the administration of justice in the province.

He is an elected member of a democratic assembly and a member of the government, a member of the executive council of the government. He therefore relates, and must relate, to the assembly and to the government of the province because of the law-making capacities of those bodies and the responsibility which we have under the parliamentary system for that kind of function.

He relates to the judiciary of the province at both levels, both those who are appointees of the federal government and those who are appointees of the provincial government. He relates to the whole array of those who prosecute in those courts—the crown attorneys distributed throughout the province. He relates in a special way to that profession that is charged with the responsibility of advocacy and has the privileges that must be inherent in its ability to discharge its functions—that is the legal profession.

He relates, as well, to the police; he has traditionally, when the police were under the jurisdiction of the Attorney General, and again recently, since he is holding the two portfolios.

In that broad fan with those spokes the role of the Attorney General, in our system of parliamentary government in Ontario, requires a sense of detachment and a capacity to observe and understand all the pressures of the system that require to be kept in an equilibrium to promote the ends of justice. What has disturbed me in the attitude of the Attorney General is something called a querulousness that has crept into his attitude on all questions related to the administration of justice, and, in my judgement, has on a number of occasions either distorted the questions and issues that were being raised, or created an atmosphere that prevented the kind of cool and dispassionate consideration of those issues in a way that would be of assistance in the administration of justice.

The members of the opposition charged with the responsibility of criticizing the Attorney General of this province come in contact with him only infrequently; they can observe his attitude only on very brief occa-

sions. They read a great deal about what happened, and they have occasions to see through the audio-visual media or in the printed word what the Attorney General says about matters that are raised. It is impossible for anyone to perform the role of critic in the sense that he can exhaustively follow what the Attorney General does.

The Attorney General—unfortunately, in my judgement—has created an atmosphere of contention, of difficulty, of an inability to understand the sensitivities to which I refer, amounting on some occasions almost to an unintended arrogance in the way he has dealt with the issues requiring consideration by those of us who have a responsibility in this area.

I think his attitude in dealing with the questions raised by the member for York Centre (Mr. Stong) in relation to the unfortunate case of Alderman Wardle is one instance. I think the attitude reflected in the assembly in his responses to very legitimate questions raised by the Leader of the Opposition (Mr. S. Smith) with respect to high-speed police chases had an element of aggression and stridency about it, which to my mind prevented others from participating in the discussion of that essential issue.

[10:30]

I think some of the comments made by the Attorney General on the radio about my colleague, the member for High Park-Swansea with respect to the question of the man who had spent the Thanksgiving weekend in jail prevented an understanding of what the role of the MPP is in such circumstances, or the role of any citizen in those circumstances. At this point, and I re-emphasize it, I am not arguing any of the pros and cons of it; I am talking about the attitude of the Attorney General, which is preventing, inhibiting and suppressing an adequate discussion of the issues involved in those situations.

I found in the response of the Attorney General to my colleague, the chairman of the select committee on the Ombudsman—while correct in law; there was no question about its being correct in law—that kind of arrogance of my profession which is one of its most objectionable features on some occasions. I have found in it the inability to comprehend that of course—out of courtesy to the members on that committee, they fully understood—there is no way of ordering anybody to do anything by a resolution of a committee.

An inability to comprehend that when one is attempting to work out the introduction into our system of government of a new institution called the Ombudsman there are obviously going to be problems that are going to have to be sorted out, doesn't necessarily mean the changes the assembly wants are the correct ones or that the Attorney General's view is the correct one. It may well be no change is warranted.

The atmosphere created by the exchanges that took place militated against a cool discussion of that question and an understanding of what the problems are with respect to the Workmen's Compensation Board and the concern of the members of the assembly.

I may say I found it quite disconcerting to be told by my House leader, in caucus, that agreement had been reached among the House leaders of the assembly that all legislation, with two exceptions, would be introduced in the assembly by November 1. The two exceptions were bills with which the Attorney General is closely involved. One is whatever the civilian review may be, and the other, the questions of the amendments to the Ontario Human Rights Code—matters that are very close to the Attorney General both in his personal concerns and in his role as Attorney General.

I find it disconcerting to hear on the radio that a number of pieces of legislation are going to be introduced in the assembly—an amendment to the law of libel and slander; a reference the other day to an amendment to some other bill that is going to come in with respect to custody. Some aspects of those questions are going to come into the assembly.

I have heard on the street—not from the Attorney General—that there are 17 bills awaiting introduction in the assembly. If that is so and these bills are going to be introduced and the House leaders, who try to ease the work of the assembly, don't know about them, that again reflects an attitude of unconcern or disrespect for the work we are about in these days.

Apart altogether from the constitutional or political theorizing that may go on about the role of the Attorney General and the role of the Solicitor General and whether they should be in one ministry or in another ministry, and apart altogether from the remarkable devotion to duty the Attorney General has shown in the Mississauga incident in the last few days, I had the sensation that a good part of the attitude of the Attorney General, as it has come through to me in these relationships, is because he is overworked, he has too much to do and it is affecting very considerably his capacity to provide that kind of care and attention which is required, without creating what are becoming unacceptable delays.

I could refer to other incidents. I am not interested in piling up one incident on the

other. I want very clearly to say to the Attorney General that either he take into serious consideration the matters that have been raised by all three of us—by the member of the Liberal Party, the member for St. George; by my colleague here—and reflect with all the goodwill in the world about what his attitude is at present in this sensitive position in relation to his stated and concerned sense of what the role of the Attorney General is, which has been expressed sometimes on occasion by him, and to decide himself whether it is now incompatible for him to hold the office of the Attorney General at the present time.

It may well be, and I touch upon this very lightly, that the wisdom of the people in Ontario who had never ever, except with one minor exception in a caretaker sense, had a person who is the Attorney General achieve the leadership of the province as Premier, may reflect very clearly that that kind of political ambition is incompatible with the office of the Attorney General.

The one exception I know of, and I haven't done any historical research on it other than out of my own particular memory, was the caretaker Premier of the last Liberal government, the Honourable Gordon Conant, who had been the Attorney General in the Hepburn government and then succeeded to the leadership of the party and disappeared from public life in 1943.

I want to end my comments by saying that the deterioration that has set in in the relationships of the Attorney General with his colleagues in the House, both within the profession of law and without the profession of law, who are responsible in varying ways for observing the Attorney General and observing the Solicitor General in his activities and are responsible for criticizing that deterioration, is affecting the kind of public concern that has to be given to issues of extreme sensitivity and extreme difficulty at the present time in our society.

I am not interested in the arid discussion about whether or not years ago we should have split off the police function mainly into a separate ministry of the Solicitor General. I am not interested in that arid discussion. There are pros and cons about it. It may well be that this Attorney General believes the two should be put back together again. I am quite happy to have that kind of discussion, if that is so—to put the two back together again.

I can say in all accuracy that the one solution no person would have accepted at the time was a split of the functions into two ministries with the understanding that there would be just one minister for the two ministries. That wasn't even within the realm of consideration.

I personally had thought the Attorney General had accepted the role of Solicitor General because of the circumstances that led to the resignation of the former Solicitor General, and that it was only a temporary appointment, and I can express to the Attorney General my surprise that in September, when the announcements were made, he still held that office.

It is with some regret that I have had to make these remarks. I was not particularly anxious to engage in this kind of questioning of the role of the man whom I admire, of the man whom I think has made, and can make, a significant contribution in various areas, but I am extremely concerned about the attitude, as illustrated by incident after incident, which has led me to the conclusion that he is going to have to consider seriously which of the two paths he is going to pursue. Is he going to be the Attorney General of this province, a role of no mean proportions, and a role that requires the kind of sensitivity I know he has, or is he, if I am correct, pursuing other ambitions that are incompatible with his role?

I do not venture into any field of whatever the motivations of one person may be. I am talking solely of the objective considerations that have impressed me as reflecting an inadequacy in the present attitude of the Attorney General which causes me severe disquiet.

Hon. Mr. McMurtry: Mr. Chairman, in view of the fact that Mr. Renwick indicated he did not want to engage in a detailed discussion of any of the incidents that he has raised, I will try to keep my response fairly brief. Obviously I have some difficulty in agreeing with many of the remarks of the esteemed member for Riverdale.

I think, and my response is couched in terms certainly more in sorrow than in anger because my perception as to the relationship between the Attorney General of this province and the justice critics or those who, while not formally the opposition justice critics, have long enjoyed the role of some prestige when it comes to commenting on the administration of justice in the province, is that, as I suggested at the outset, there seems to have become a rather unfortunate politicization, in my view, of the role of the opposition members who are commenting on these critical issues.

For example, I had always been under the impression that if the member for Riverdale were truly concerned about any of the issues that he has raised or any of the other issues, he would have had no difficulty communicating that concern—quite apart from questions that may or may not have been asked in the House, and he in fact has asked very few questions of the Attorney General in the past two years; I doubt there would be more than three or four questions during that whole period of time although I may be mistaken.

I appreciate that by reason of his heavy responsibilities in his own caucus, there are a number of areas of interest that he must direct his attention to. But the member for Riverdale has never had any difficulty in the past in communicating with the Attorney General of this province in any manner that he wished, to discuss issues that sometimes can be discussed more rationally outside the House, because of the highly political atmosphere that seems to pervade the assembly and has pervaded the assembly during the past 18 months, at least in my view.

[10.45]

For example, to take one illustration of why I am concerned, there is the role played by the member for Riverdale with respect to the tragic shooting of one Albert Johnson. I replied to the open letter the member for Riverdale sent to me and my comments are contained therein.

It was certainly my view at the time that the member for Riverdale had chosen this very tragic, very sensitive situation in the community to engage in a form of rhetoric that I thought very unbecoming him, considering my great respect for him as an individual. I hope we will have an opportunity during the course of these estimates to discuss that incident and others. I felt, not only through his comments in his letter but his comments on television and elsewhere, that he either seriously misunderstood the situation, which I doubt, given his well acknowledged abilities, or that he chose simply to distort the situation at a time when he only added to the unhappy process of polarization in the community.

I cite this as but one example of events which have occurred which have made the Attorney General of this province wonder about some of the opposition critics who in the past were never reluctant to discuss these sensitive issues personally with the Attorney General if they felt it was appropriate, quite apart from the questions that should be asked in the House. I rather regret some have not chosen to do that.

For example, the member for Riverdale mentioned the manner in which I had dealt with the question of our colleague from York Centre (Mr. Stong) in relation to the case of the Toronto alderman. That member did on that occasion, as he does usually, ask a very straightforward question. In my view he received a fairly direct answer which appeared to satisfy him at the time.

It came to my attention he was perhaps not satisfied with the answer so I arranged for him to meet with some of our senior law officers of the crown to make sure he had a total appreciation of what had occurred, particularly in the context of the role of the crown attorney in that case. Obviously the role of the Attorney General is limited as to the advice he can give to the judges of our province, but there is some concern in relation to the role of the Attorney General. The member for York Centre met with the senior officers and I think was well satisfied as to the conduct of the crown attorney.

Since that issue is raised by the member for Riverdale I am simply indicating what I believe to be a very useful process which that particular member never hesitates to engage in, and other members from time to time do as well. I think his attitude was motivated by a desire not to politicize issues in a manner that was not going to be useful or constructive in so far as the administration of justice is concerned.

I will simply sum up, Mr. Chairman, by reiterating what I have already stated and that is the view that there seems to be less interest on the part of the opposition critics than there used to be with respect to assisting the Attorney General in carrying out his responsibilities. I have always invited the advice of the justice critics in relation to these very sensitive issues. I have always indicated that while we may not agree on occasion, I welcome their advice.

Personally I have perceived an attitude that is less interested in making a constructive contribution to the administration of justice than in simply scoring political points. If that has provoked a little bit of querulousness from time to time on the part of the Attorney General, I am not going to debate whether it has or it has not, I have to tell you, it is a reflection of my personal disappointment with respect to the attitude that has begun to prevail in the assembly in relation to the administration of justice compared with the attitude that was exhibited by justice critics during the first two or three years of my stewardship.

I would like to leave my comments at that and again invite a full discussion on any of

these issues the member for Riverdale has raised, or any other members have raised. Perhaps if the members had a better understanding of these issues, I would like to think they might be less critical of the manner in which we have carried out our responsibilities. Be that as it may, the estimates seem to me to be a very important occasion to review these issues in a manner that simply isn't possible in the Legislative Assembly.

Again, Mr. Chairman, I am prepared to deal with any of these issues now in detail, depending on the wishes of your committee.

Mrs. Campbell: I had said at the outset I thought we had taken a fair amount of time in this vote, and that I will be happy to deal with the matters as we come to the votes. I yielded to Mr. Renwick because I felt he had some observations that I understood he was anxious to make the last time we were together. I am not prepared to go further into them in the first vote at this time.

Mr. Warner: Let me ask you this, Mr. Chairman: I mentioned last day I had three particular items I wished to raise. I don't care where they are raised; I am not sure what vote they belong under. They are the Daniel Hill study, the child support payments and free trips for judges.

I figured since item 1 says "Attorney General" and there wasn't any other specified place I could find in the book where these things belonged, that that was the proper place to raise them. There may be other areas where I don't have anything to raise and we can just pass through them, but those are three particular items I would like to deal with today. May I deal with them under this vote?

Mr. Chairman: Fine, if that is the wish of the committee.

Mr. Warner: Could I deal first with this business of the free trips for judges? I believe you are in receipt of numerous correspondence from Mr. Frank Paul. Am I correct in that? I did meet with Mr. Paul and discussed his concerns and he seemed to be genuinely concerned about the apparent conflict of interest that lawyers would have and judges would have when a judge and a spouse are invited to a free trip somewhere out of the country, the Caribbean or wherever, when those lawyers could very well be in front of the said judges at some point down the road. There are two items, I guess: the possibility of a real conflict and the appearance of a conflict.

I was surprised at the number of social events in Zena Cherry's column. She had mentioned a variety of events and the names of the people who had attended over a period of time. The Advocates' Society has had some great jaunts. Its first spring convention was in Jamaica in 1968, Ireland in 1970, England in 1972, Scotland in 1974, Australia in 1976. The Advocates took along as guests the two Chief Justices of Ontario, George A. Gale and William Estey, and Mrs. Gale and Mrs. Estey, and so on.

There is correspondence which I probably have back from a solicitor for the Solicitor General, Mr. Spring, who responded on May 30, 1979.

Hon. Mr. McMurtry: I'm sorry, what letter was Mr. Spring responding to?

Mr. Warner: This was to Mr. Paul. I don't know if you have got it.

Hon. Mr. McMurtry: I don't have it here.

Mr. Warner: I'd be quite happy to give you a copy of it. It deals with the relationship between the Advocates' Society and the senior judicial officers.

Hon. Mr. McMurtry: I don't know. I must admit I express a little surprise as to why one of our lawyers in the Solicitor General's ministry was responding to that.

Mrs. Campbell. There is a confusion.

Mr. Warner: There is generally a certain level of confusion around here and I probably helped create it. I must admit to some confusion over the whole thing. This is why I raise it. It reads in part:

"It seems to me obvious that members of the legal profession are entitled to show their respect for the judiciary by offering them the hospitality of the nature you set out in the press clippings which you forwarded to Constable Baskey. I think you will agree with me that the eminent members of both the judiciary and the bar who you mention in your complaint are very aware of section 108 of the code and would be loath to do anything that could conceivably offend against either the code or, for that matter, the ethical standards that govern the profession."

There is also a letter from the Deputy Solicitor General, Mr. Hilton, dated July 11, 1979. He has absolute confidence in the integrity and professional competence of both Mr. Ritchie and Mr. Spring. He says:

"It is part of their responsibility to provide legal opinions and advice to members of the OPP and on several occasions the OPP have approached our legal branch for advice respecting your complaints. On the latest occasion, Mr. Spring advised the OPP on the basis of the materials you provide that there was no evidence that a number of justices of the Supreme Court of Ontario have com-

mitted criminal offences. He advised the OPP that an investigation was not warranted. In his letter to you of May 30 he explained his reasoning very fully. The ministry does not propose to take any further action on the complaint."

[11:00]

I would be the last one in the world to suggest that there is some evidence of corruption. What I would like your opinion on is the appearance. Are you concerned that this kind of entertaining could provide an unsettling appearance for the public? It seems to me that we have to go to great pains to make sure that we can supply the confidence to the public that we have a thoroughly, completely independent judiciary, and that they are above any kind of influence. That is why I find these articles unsettling, quite frankly, and that is why I raise it with you.

Hon. Mr. McMurtry: I agree with you, Mr. Warner, that the appearance is obviously important, and the administration of justice is the reality. I don't think any of us really believes for a moment that any of the hospitality that has been extended to the judiciary by the Advocates' Society is going to interfere with the discharge of their duties. So far as the appearance is concerned, as you correctly pointed out, there has been some interest in this matter. I have indicated to the current president of the Advocates' Society, Mr. Earl Cherniak, that I wanted to meet with him to discuss precisely what their policy is. That meeting has not yet taken place, and it is hoped that it will before the estimates are concluded.

I think to put it into its context, the only type of hospitality is the occasional invitation to a dinner, bearing in mind that the Advocates' Society is made up I guess of close to 1,000 members who specialize in court work. Most of the people who appear before these judges are all members of the Advocates' Society, and it is the view that there should be some interaction on a social basis between the judiciary and the legal profession, particularly when this interaction socially is usually a part of seminars, of educational seminars. Invariably, judges are asked to sit on panels, and participate in educational seminars for the profession as a whole. The fact that some of them may be extended really a very little bit of hospitality as part of their participation in these educational seminars, I really think should not even have an appearance of a conflict of interest to the reasonable, rational person.

When it comes to travelling, I understand that when the Advocates' Society has conferences outside the country once every two years, these conferences invariably involve senior members of the judiciary in other countries. I have attended a couple of these conferences myself, and know from firsthand experience that members of the judiciary in other countries are invited to participate in this type of seminar which, of course, makes sense. I gather on occasion the Chief Justice of the High Court, although it is usually a trial judge or an Associate Chief Justice, may be invited along. In these particular situations, I don't know all the details about who precisely pays for the airline ticket and other hospitality.

I think we have to bear in mind regarding these international conferences, involving as they do judiciary in other countries who are expecting to see members of the Ontario judiciary, that it might be a pretty sad day if we were to acknowledge there is an appearance of some sort of special favoritism that might result as a consequence of that involvement by our judiciary.

I just wanted to indicate to you the context in which "hospitality" is extended. I recognize that it's a very sensitive issue, and I'd certainly be interested to have the views of the members of this committee as to whether or not it should be suggested to the Advocates' Society that they do not invite judges to participate in any of these conferences. In the meantime I've indicated that I will be discussing it personally with Mr. Cherniak. I've communicated a message to him that this issue has been raised, and that I'd like to meet with him to acquaint myself specifically with their precise policy in this regard.

Mr. Warner: Other members may wish to participate. I'd just mention briefly that as I read over the material it includes the description that the Lieutenant Governor's suite looked wonderfully wintry with roaring wood flames in the fireplace and bright coral flowers from many candles. That's very nice. There's a certain style that Zena has.

Mrs. Campbell: You're speaking of a friend of mine.

Mr. Warner: I was on the committee dealing with rent review and I had a very burning desire to try to bring in rent protection. If during that process my wife and I had been invited for two weeks in Scotland as the guests of Cadillac Fairview Corporation Limited, I would have found that impossible to accept. It's obvious to me, and I hope to my constituents, that no one is going to purchase my vote or my soul or my mind for a trip to Scotland.

Mr. Chairman: That's a discriminatory remark.

Mr. Warner: I've never been to Scotland and I would love to go, but I would think that tenants who are constituents of mine would wonder about what kind of effort I was making on their behalf, if in the midst of all this I was the guest of Cadillac Fairview in Scotland for a couple of weeks. I think the appearance is extremely important. I would ask if you could, following your discussions, come back to us with some suggestions to the justice committee as to the approach to this matter.

Is it something that the Advocates' Society could deal with by themselves, in terms of guidelines for their members about conventions or whatever? Do you have some suggestion as to how we can handle this, in order to protect the appearance of impartiality, which I think is the essential ingredient in all this discussion?

Hon. Mr. McMurtry: As I say, I will be reviewing this with Mr. Cherniak. I'd just like to make this one for further observation: I don't think it's quite an analogous situation. I agree with you that for you to have accepted such an invitation pending the consideration of rent review legislation, would certainly have every appearance of a conflict of interest.

I just don't want to concede that this type of hospitality that has been extended by the Advocates' Society, as a group, really can be put on the same plane, that's all. I think it's a somewhat different situation. I still acknowledge your concerns and the validity of your concerns with respect to the possibility of an appearance that those who are members of the Advocates' Society can somehow receive a little better treatment than those who are not members of the Advocates' Society who happen to appear before those judges.

Again, I guess I am placed at a disadvantage by reason of my own many years spent in the courts and knowing so well, as I do, that that couldn't possibly occur. It's a little more difficult for me to appreciate the appearance of the conflict of interest. I realize—again, I'm the first to admit—that perhaps I've been too close to that scene for too long to view it as objectively as somebody who has not been. I readily acknowledge that.

Mrs. Campbell: Could I just say something? I'm of two minds. I wonder whether, if the object of the exercise is a meeting of the minds of our justices with justices in, for example, Israel—I think that was one occasion when you were present—

Hon. Mr. McMurtry: Yes.

Mrs. Campbell: —since Israel had gone so far in its protection of children, with very real differences in the laws pertaining to children, particularly as witnesses in cases where we have had a great deal of concern about a child having to keep certain incidents in mind in order to give evidence, the way in which they handled it was surprising to me—perhaps it was because it was a matter of chief justices rather than justices at another level—in that that didn't seem to be very high on their schedule.

The Attorney General may recall that I did ask him about that particular matter, I believe, in the House. It goes back to the early days when a group of us started a system with Dr. Grey. We investigated problems of children who had been molested and tried to come up with some kind of solution for those children. We did study the Israeli experiment as it was then. I had occasion to discuss it with one of the justices when I was in Israel with the Ombudsman's committee.

Perhaps it would have a better appearance if there were another source of funding rather than the Advocates' Society or any other such organization so that justices could appear and participate in this kind of information gathering, which I think is useful to our system. I would just ask the Attorney General to look at that kind of situation so that they might be seen to be completely objective as they met with justices in other parts of the world.

Hon. Mr. McMurtry: I've thought about that. Again, if such funding were to be made available, of course, it would have to come from government, and I suppose it would be more appropriate for it to come from the federal government than from the provincial government. I mean this only in the context that the provincial government is a major litigant in the courts of our province. It would be a little more detached if it were to come from the federal government. This is something we may well pursue. I think it's probably a good suggestion.

[11:15]

Mr. Ziemba: Just to go along with Mrs. Campbell, I question funding coming from a special-interest group. It would be more appropriate, I think, for freebies like this to come from government.

I wonder, when you're meeting with Mr. Cherniak, if you could get from him the dollar

value of the hospitality that's been extended to these judges and share that with this committee. I would imagine if the dollar value were high enough you might want to deal with it by way of guidelines. If it isn't very high, then maybe it wouldn't be considered something that might influence judges. On the other hand, if there are many thousands of dollars being spent by the Advocates' Society, surely we have an obligation to address that. If you shared that information with this committee, I think it would help us in our deliberations.

Mrs. Campbell: There is just one thing I would like to—

Mr. Chairman: Does the Attorney General wish to answer that?

Hon. Mr. McMurtry: No. I will simply see what information the Advocates' Society is prepared to make available to me. I rather suspect that when, for example, you talk about the amount of money, I am sure that if the Advocates' Society goes to Israel the airlines would provide a certain number of seats without charge. We are, really, talking about only one or two judges at most who are invited to any of these international conferences. If any other judges go, they pay their own way. I know it doesn't go beyond two judges; it may be that only one is invited—one of the Chief Justices or Associate Chief Justices on each occasion.

Mr. Renwick: The point that seems to come through to me from the comments of my colleagues in the interchange that has taken place is that the appearance, as the Attorney General has said, outside of the impartiality of the judge, is an essential ingredient of what we are about. If we are so scrupulous in protecting that impartiality as to deprive judges even of the secret ballot, which is the case, then it seems to me, regardless of the profession to which they formally belonged and the associations they have made, that any appearance of some kind of a monetary contribution with respect to their entertainment, travel and journeyings is something that must be given very serious consideration, when you also take into account that they are well remunerated, in relative terms, in our society.

My colleague is not saying it is wrong for persons interested in matters legal and judicial, for judges, to participate in that. It is that sense of the surrounding perquisites that is potentially destructive, objectively, to the impartiality. I am glad the Attorney General is going to look into it and I look forward to his report on it.

Hon. Mr. McMurtry: Mr. Renwick, what would your view be if it were to be suggested that for such an international conference sponsored by a professional body such as the Advocates' Society, for example, the federal government were prepared to make some allowance for travelling expenses for members of the judiciary; and I say the federal government as opposed to the provincial government because of our more frequent involvement as a litigant before the court? Would that, in your view, answer the problem?

Mr. Renwick: I tend not to know in that kind of situation whether that is the way to solve the problem. I think you leave it to the discretion and judgement of the individual member of the judiciary and of the profession as to what is appropriate. I think if a custom has grown up which has perhaps become somewhat lax, somewhat less than clear, it can be clarified very easily in Ontario by the Attorney General making, as always, a careful statement with respect to what has happened.

I don't see it as a method of saying, "Well, now, we must set up a special fund and a special routine" in order that this go. Once you do that, somebody has to decide whether that trip fits some particular rules.

I may say we had the same discussion in an entirely different context in our caucus with respect to participation by members of our caucus in what we call the democratic socialist movement around the world, where some of the sponsors defray some or all of the expenses. We had a good discussion about it and came to the conclusion it was, first, a matter of the colleague being able to answer any questions put to him with respect to it by other members of the caucus and, second, it would remain a matter of discretion at the time so long as it was known where he was going and what he was going to do. I think that's the way it should be left.

I think my colleague is quite right. It is that overdoing of it which leads to the criticism. When does a legitimate legal conference become something called an adjunct to a junket, which everybody would like to take? It is the constant problem about businessmen finding it convenient to have a conference in the islands during the wintertime; it's that same problem.

Mr. Warner: Or select committees.

Mr. Renwick: Or select committees, yes.

Hon. Mr. McMurtry: Unfortunately, I have to leave now. I wonder if it would be agreeable to you if the parliamentary assistant, Mr. Sterling, take the chair on the basis

there may be some other votes you could turn to which you might be interested in discussing with some of my senior colleagues here:

Mr. B. Wright, who is in charge of the civil division of the ministry; Mr. John Takach, director of crown attorneys; Mr. Glenn Carter, general manager of programs and administration; Mr. S. Chester, executive counsel to the Deputy Attorney General; and other financial and administrative people in the audience.

I wondered if there were other issues not related directly to my responsibilities—although I guess all of them are—that might be more technical matters you would enjoy discussing with my colleagues. I only offer that as a suggestion.

Mr. Warner: Mr. Minister, first of all, I certainly have come to appreciate the expertise that exists in your ministry; there are some extremely capable people. I would find it appropriate from time to time to get their advice and information.

My questions relate primarily to matters of policy that I feel it would be appropriate for me to deal with directly with the Attorney General. If you are not able to be here, that's fine; there is nothing I can do about that or perhaps that you can do. Perhaps the best thing to do, Mr. Chairman, would be to adjourn and come back when the Attorney General is able to be with us; we can continue at that point.

I don't know about other members, but normally I raise matters of policy. If during the discussion there is particular information that is needed, the staff generally provide that information. But we start off on the basis of a policy discussion; then if facts and figures have to be drawn out, the staff is able to do that.

Mrs. Campbell: I would like to accommodate the Attorney General. I think his work as Solicitor General does necessitate his leaving and I have no criticism of that. I had hoped perhaps we could have completed the first vote. But I understand Mr. Warner still has two or three other matters he has raised and which would have to be dealt with under this vote, as I see it.

My own concerns—I was trying to look to the official guardian, for example—have questions that really require policy statements. In particular, I have asked twice now and the Attorney General has not accommodated me, on the very real and I think impassioned plea from a pulpit in a church in Toronto by the official guardian for funds to travel. The Attorney General has not yet answered whether those funds will be available.

Hon. Mr. McMurtry: Well—

Mrs. Campbell: No, there are other matters of far greater significance than the official guardian's request.

Hon. Mr. McMurtry: The only suggestion I have, and it may not be satisfactory, is that Mr. Warner asked questions in relation to support payments under vote 1406, royal commissions. We have here Mr. Clendenning who is responsible in so far as the Attorney General's involvement in administrative support of royal commissions is concerned. I thought these were people with whom it would be far more beneficial to discuss some of the nuts and bolts of these matters. I apologize for having to cut this short this morning, but I just make that suggestion.

Mrs. Campbell: I would also like to say Mr. Sterling gained my admiration for the way he piloted bills through, so it is not a statement of denigration of Mr. Sterling. I just feel it is appropriate, with all the problems we face, that the Attorney General should be here.

Mr. Chairman: I think we have reached a consensus that we will shortly adjourn until Friday.

There are a couple of matters I wanted to raise with the Attorney General on Friday in my capacity as a member of the committee. One is his relationship with other ministries vis-à-vis quasi-judicial bodies, such as the Ontario Transport Board and other such bodies. I hope the Attorney General will do some thinking about that so we can discuss that matter.

The other matter is that of legal aid and policy on legal aid. I asked Mr. Sterling for a copy of his speech that he read, and which I assume was prepared by the ministry, to the community information directory office in my riding. I have some concerns about that policy statement. I would like it if we could be supplied with a copy of Mr. Sterling's speech so we may question the minister on that. I am sure Mrs. Campbell and some other members would like to see that speech.

The committee adjourned at 11:28 a.m.

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Official Report (Hansard)

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Third Session, 31st Parliament
Wednesday, November 21, 1979
Morning Sitting

Speaker: Honourable John E. Stokes
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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 10:20 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL
(continued)

Mr. Chairman: You may or may not be pleased to know the insurance bill from Mr. Drea was referred to committee of the whole and therefore we do not have to deal with it in this committee. We do have 15 hours left for the Solicitor General and six hours of justice policy after we have completed these estimates.

It is not necessary for us to have any kind of motion to sit this afternoon, provided we agree to do so. It would give us some additional time. Some people have suggested this is one possibility. I am afraid if we don't get in some additional hours the Solicitor General's estimates and perhaps to Mr. Roy's delight, justice policy estimates, will simply have to be approved without the adequate number of hours of debate. Is it your wish that we adjourn at one o'clock and reconvene at two for a couple of hours for additional debate?

Mrs. Campbell: Yes.

Mr. Chairman: Is that okay with the Attorney General? You would be here this afternoon?

Hon. Mr. McMurtry: I assumed I was going to be here until six o'clock this afternoon with a break for lunch. I'd been told the break for lunch was 12 to one.

Mr. Chairman: That is acceptable to the committee.

Hon. Mr. McMurtry: I have so advised the Premier, since I was going to be in cabinet at that time. Except for that one hour lunch break, which I was told before was 12 to one, I will certainly be here until six.

Mrs. Campbell: We must determine what time we break. I think an hour is sufficient if we can get the service that members' services hopefully will be able to provide.

On vote 1401, law officer of the crown program; item 1, Attorney General:

Mr. Chairman: When we adjourned, we were on the first vote, vote 1401, item 1. At that time I advised the Attorney General that there were a couple of matters I wanted to discuss with him under this vote, quasi-judicial tribunals and his relationship with other ministries on that. I thought too, it would be useful for members of the committee to have copies of Mr. Sterling's speech to the Community Information Directory Office concerning the legal aid program as I think some members of the committee might want to question him on policy in this area.

If there are other questions under the first vote, I will be happy to recognize people.

Mrs. Campbell: Mr. Chairman, prior to detailed discussion, and simply as a procedural matter, I have concluded my comments until we get to the official guardian. For the last few years, or at least the last little while, it has not seemed to be the practice to have the official guardian present. I would ask that the Attorney General ask him to be present on this occasion because there are three areas I would like to discuss with him.

It is simply as a matter of procedure. I presume we would get him this afternoon. That is the second vote. If we can conclude the first, I think we ought to be able to address him this afternoon, if that is convenient.

Mr. Chairman: Is that convenient to the minister and his staff?

Hon. Mr. McMurtry: Mr. Chairman, just before dealing with that, since we are dealing with preliminary matters, for the record, I want to state how much I appreciated the courtesy of yourself and the members of the committee in not insisting on proceeding with the estimates on Friday and other times when it was necessary for me to be in Mississauga. For the record, I would like to express my personal appreciation in that regard.

With respect to Mrs. Campbell's point, I had anticipated that probably it would be helpful for the official guardian to be here. Before the estimates commenced, I indicated to him that I wanted him to be present and he is on standby right now. It might be helpful if Mrs. Campbell could advise me of the specific areas she wishes to deal with, other than the official guardian's operation, in order that he might be advised in advance

of his appearance here to direct his attention to these issues.

Mrs. Campbell: I have taken the opportunity of discussing my concerns with the official guardian. We have had the reference to the abduction cases, and I wanted him to bring us up to date with his role. I am deeply concerned with the program of preparing lawyers to represent children. That is very much a part of my discussion. Third, while the vote comes later, it seemed to me it would be practical to at least ask his position, now that we have opened up the Criminal Injuries Compensation Board to children. I would like to have his position on record, because I had some serious questions about that. That would conclude anything I might have to say on the board itself at any future time. Those were the three areas specifically.

Hon. Mr. McMurtry: That is very helpful, Mrs. Campbell. Thank you very much. Do we have a specific time you would like the official guardian to be here this afternoon?

Mrs. Campbell: I would hope we could conclude the first matters. Mr. Warner, as I understand it, has two more matters to raise under the first vote, and Mr. Philip has indicated some queries under the first vote. If we get into tribunals, then of course I may have something to say on that aspect.

Mr. Chairman: I think the two queries I had—one being Mr. Sterling's speech—would be more appropriately handled under vote 1402. I think the matter of tribunals is really one of policy and perhaps can be under the first vote. I am at the disposal of the committee.

Mr. Ziemba: The minister mentioned Mississauga. Could I ask him if there was one other chemical that we haven't heard about that leaked in that Mississauga disaster, namely, styrene? Was there a styrene leak in Mississauga?

Hon. Mr. McMurtry: Yes.

Mr. Ziemba: I understand if styrene insulation catches fire it gives off cyanide gas. Would this have been the real reason for this mass evacuation?

Hon. Mr. McMurtry: No. I am not aware of that problem.

Mr. Ziemba: Would you be willing to have the pets that died in the vicinity of the disaster examined to see if they died of cyanide poisoning—if they are still around?

Hon. Mr. McMurtry: Yes. I wasn't aware of that. Because of the chemicals that seeped into the ground, we have kept the immediate area evacuated. I am not talking about any residents. The police are continuing to warn people to stay away because of what is in the soil. I am not aware of any pets dying. I will certainly look into that matter.

Mr. Ziemba: Could you ask the humane society if it has any pets it is about to dispose of, to hold on to them and examine them to determine if they died of cyanide poisoning?

Hon. Mr. McMurtry: I'll have somebody look into that right away. I'll have somebody communicate our concern to the Ministry of the Environment.

Mr. Lupusella: Mr. Chairman, in relation to the same incident, the Mississauga disaster, is the minister aware a public inquiry is going to be called on this particular matter? Is the province willing to make a presentation to this public inquiry, or is the whole problem and the whole investigation going to be carried out by the public inquiry itself?

[10:30]

Hon. Mr. McMurtry: I have indicated to the federal Minister of Transport that we wanted to be fully consulted in relation to the terms of reference in the public inquiry. Actually, the fact he announced the intention to make the inquiry broader in scope than the one contemplated by legislation—that was going to be carried on by the Canadian Transport Commission—was really to some extent a reaction or a response to our expression of concern to him in relation to implementing the broadest terms of reference.

We will be represented at that inquiry and we will present any evidence we feel is relevant to these terms of reference. In other words, we intend to play a very significant role.

Mr. Lupusella: If I may enlarge the concept of this consultation which eventually is going to take place, can the Attorney General make sure, in conjunction with the Ministry of the Environment, the Ministry of Labour and the Ministry of the Solicitor General, he prepares a concrete brief to present to this public inquiry to show the stand and the concern of this province in relation to this serious matter?

Hon. Mr. McMurtry: We will certainly be presenting evidence. It's probably a little early to be able to describe precisely the nature of the brief we will present, but all of the ministries will be co-ordinating their efforts—the Ministry of the Environment the Ministry of Health and the Ministry

of Labour because of their concerns with respect to industrial safety; the Solicitor General because of our overall responsibility for public safety in emergency situations.

We'll certainly be making a comprehensive presentation to this inquiry. The member can be assured of that. As a matter of fact, I understand an assistant deputy minister of the federal Department of Transport is meeting with the deputy solicitor general at noon today just for a preliminary discussion in Toronto in relation to the terms of reference.

I've indicated to Mr. Mazankowski I wanted to be fully consulted before any final decision was made. I've indicated to him they should be consulting fully with the local officials in Mississauga, the mayor of Mississauga and her people as well.

Mrs. Campbell: I wondered if, as a result of this disaster, the Solicitor General has had an ongoing discussion with our various ministries here, whether we've learned anything as far as the trucking aspects are concerned, in trucking dangerous materials, and what progress has been made in making some kind of regulation available. The trucking industry is basically a provincial responsibility. I think the Solicitor General has a responsibility for the safety of the community as well as his general responsbilities.

Hon. Mr. McMurtry: Yes, the trucking industry is both a federal and a provincial responsibility. I have indicated my concern in this regard to my own colleague, the provincial Minister of Transportation and Communications (Mr. Snow). He's just returned, I gather, in the last couple of days.

Mrs. Campbell: From Hawaii, I understand; a nice place to be.

Hon. Mr. McMurtry: From Japan.

Mrs. Campbell: Oh, Japan.

Hon. Mr. McMurtry: Extensive regulations, I gather, have been developed in the last several years. The Ministry of the Environment has been very concerned about this issue as it relates to any possible spill. There has been an ongoing dialogue with the Ministry of Transportation and Communications and the Ministry of the Environment. The issue of trucking is certainly a very important one. I can't give you specifics as to the regulations you were talking about.

Mrs. Campbell: I wasn't asking that.

Hon. Mr. McMurtry: No, I appreciate that. You were talking about a large number of chemicals.

I happened to be the speaker at the 53rd annual meeting of the Ontario Trucking Association at a luncheon on Monday, at which the chairman of your committee was also present. I think he may recall I said to the truckers that quite obviously the Mississauga emergency was focusing the spotlight on the trucking industry as well as the railway industry. The public would have to be assured the trucking of dangerous or potentially dangerous chemicals and other substances was carried on in as safe a manner as could be reasonably expected, given the needs of our far-flung communities throughout this province to be served by both the trucking industry and the railway industry.

There's no question that will be very much a part of our concerns. I've indicated to the Minister of Transportation and Communications that this assurance will undoubtedly have to be given by us to the public, once again pending any outcome of a federal inquiry. That's very much a part of my own personal concerns as a result of what I've learned during the past week or so.

Mr. Chairman: Excepting your personal concerns and the tremendous amount of work you did personally in this whole spill—

Mrs. Campbell: It wasn't a spill, was it?

Mr. Chairman: —a spill of a railway—I found very little in your speech when I was at the table with you that gave me very much assurance.

You say there is a dialogue between the Ministry of the Environment and the Ministry of Transportation and Communications. I sometimes wonder what the superministers are paid for. Mr. Brunelle couldn't understand what the issue was, as evidenced by his answer to me in the House in your absence the other day on this very issue.

People in the trucking industry inform me the licence given out by the Ministry of the Environment to trucking companies isn't worth the paper it's written on; anybody can get it.

The only people who have exercised any kind of control have been the Ministry of Transportation and Communications. The minister actually wanted to deregulate the carrying of dangerous waste products until the Liberals and the New Democratic Party told the then House leader, Bob Welch, the bill wouldn't pass in the Legislature and they'd better rewrite it. It was rewritten twice under tremendous pressure from the two opposition parties. That's the only way we were able to get any kind of regulation.

The regulation comes in from the Ministry of Transportation and Communication. To my knowledge, nothing was ever done by the Ministry of the Environment. There is very little co-ordination between those two minis-

tries, at least vis-à-vis trucking, in this regard.

The federal department has been working for 10 years on some kind of regulation of transportation of dangerous goods. Suddenly we have an accident in Mississauga and the minister says he's coming out with a bill in 14 days' time, which amazes me.

I know the provincial minister, both the present one and the former one, have been meeting with federal officials. Mr. Snow announced, in letters I have copies of, that the moment federal legislation was in place the mirror provincial legislation would come in. It seems to me Mr. Brunelle should have been in a position to give me some assurance that if the federal bill is in place and is passed the provincial legislation would at least be introduced and, if necessary, sent to committee over the Christmas holidays. None the less, something should have been done in the trucking end of it.

The real problem in the trucking industry, as I see it, is not one of the industry itself. It's the problem of the number of gypsies that have been able to operate. The legitimate trucking companies I met with, the ones operating under the Ontario Highway Transport Board Act—some of whom, no doubt, you met the other day—have good equipment. They've invested a lot of money in their equipment and they're trying to do a decent job, but they're being undermined by a system of illegal operators.

I think if you can somehow, in your capacity as Solicitor General, get some of those off the road we'll be in a better position to do more to safeguard the Ontario public from disasters on the highway. None of these would be as serious as what can happen by rail, because for one thing you're not going to carry two incompatible products in the same truck and the volume is not as large in only one truck.

None the less, we could be prevented from disasters by simply making sure the people who are licensed under the Ontario Highway Transport Board Act are the only ones out there and anybody who doesn't have that PCV licence has his truck impounded and the plates taken, and the full course of justice is applied. It may be serious enough that you have people violating the law in the moving business and other forms of the trucking industry, but when you have them violating in this you're in real danger.

Perhaps I should have covered that under the quasijudicial tribunals that I wanted to talk about, but there's another aspect to them in that.

Hon. Mr. McMurtry: I appreciate and share your concern. My address to the trucking association was not really intended to deal with this issue except in passing. The address was prepared to deal with the issues of highway safety in relation to vehicular traffic on the highway. Obviously I had to make some mention of Mississauga and our concerns.

I share your concerns. Without knowing precisely what the response has been to date and what it will be, I will communicate your concerns—as a matter of fact, today—to my cabinet colleagues when we break at lunchtime. I'll be happy to do that.

Mrs. Campbell: It seems to me about 12 years ago we were entering into discussions on this subject—and I don't know what happened to them. At that point it was felt in the trucking industry there should be, for all areas through which these trucks would be passing, warnings about the contents of the vehicles. It came about particularly by way of concern expressed by the Toronto firefighters in being able to know what they had to meet in the event of any kind of disaster.

One concern was trucking for hospitals using nuclear fissionable materials or whatever you call them. They felt they should have advance warning when any of these things passed through their municipalities. It seemed to me that has broken down, but I have no evidence of that. People have told me that to their knowledge they're not getting any warning through the truckers.

I would think if you have legitimate truckers then some leverage could be extended to ensure those sorts of warnings were given, then those who would have to fight the situation in the event of a disaster could have knowledge of what they were about to fight. [10:45]

Mr. Warner: On the point of procedure Mrs. Campbell raised earlier about the official guardian coming in, I assume he's a busy person; would it be possible for us, regardless of whether we finish that first vote or not, to decide that at a certain time we're going to deal with the official guardian and whatever questions flow? If it made sense we could do so this afternoon at whatever seems to be an appropriate time. At that time, whether or not we finish vote 1401, we can have the official guardian here, rather than bringing him back and forth.

Mr. Chairman: That's an excellent suggestion, Mr. Warner. Can we agree as a committee that we will deal with the official guardian at one o'clock—or earlier if time permits?

Mr. Warner: I think we're breaking for lunch from 12 until one.

Mr. Chairman: Yes, but we have only a few questions on the first vote.

Mr. Warner: Why don't we ask if the official guardian can be here at one o'clock? If we've completed the vote, fine; if not, then when we've finished dealing with the official guardian we can go back to it?

Mr. Chairman: Is that agreed?

Mrs. Campbell: Couldn't we say that we enter into a discussion with him rather than "dealing" with him?

Mr. Warner: How would you wish to phrase it? Enter into discussion?

Mr. Chairman: We expect the official guardian to appear for a friendly chat at one o'clock.

Mr. Warner: The second item is a very brief supplementary. I appreciate the Attorney General's concern over the transportation of hazardous items. Do I take it that included in the submission you are going to make to the CTC—since I understand now the Prime Minister has broadened the scope of the hearing to take in all transportation—you will be presenting your concerns regarding the transportation of nuclear wastes within Ontario by truck—through northern Ontario primarily, but from the Port Hope site up through northern Ontario?

There is some concern that the transportation of that waste has not been adequately attended to. I would hope, since you have expressed an interest in the truck transportation of hazardous materials, that would include a detailed section dealing with the transportation of nuclear waste.

Mrs. Campbell: Could we say nuclear substances? I think the transportation is not always a matter of waste, but of medical materials used for treatment in hospitals, which I don't think come under the heading of waste.

Mr. Warner: True.

Mrs. Campbell: The disposal of them has been left rather open after they have been used in hospitals.

Hon. Mr. McMurtry: I think the intention of the federal inquiry, in its broad terms of reference, would be restricted to rail—not to the trucking industry.

Mrs. Campbell: Should it be, when there is a joint responsibility?

Hon. Mr. McMurtry: We can certainly explore that aspect of it. The argument may well be that there should be a separate inquiry related to trucking—otherwise you may have an inquiry that's going to last five years. When dealing with the rail traffic through this vast country of ours, to ask any federal commission, judicial inquiry, judicial figure—I don't know at the moment; it's a possibility—to go beyond rail traffic I think would be unrealistic. That's my personal view. I'm quite prepared to communicate your concern, Mr. Warner, but I don't think the Prime Minister had any intention of going beyond an inquiry related to rail traffic.

Mrs. Campbell: Except that if you're going to be killed by something I don't think it matters much whether you are killed as a result of a rail accident or a trucking accident.

Hon. Mr. McMurtry: I agree. In talking to the Ontario Trucking Association about the Mississauga situation, I went on to ask what our reaction would have been if more than 1,400 people had died and if more than 50,000 had been injured in the Mississauga incident. You and I know there would have been enormous demands for inquiries, et cetera. I went on to say, "Yes, ladies and gentlemen, approximately 1,400 people will die and roughly 50,000 people will be injured in Ontario in 1979 and most of us won't get very excited at all." I'm talking about accidents on the highway.

If you are going to be mangled in an accident—I guess my own concerns, as you know, are very much related to the complacency of the community with respect to our alarming highway traffic statistics.

I don't mean to digress from the topic but, again, I just think any inquiry has to have some limitations. Having said that, I agree and share totally your concern with respect to the hazardous substances that may be carried by the trucking industry.

This is something the provincial government is going to have to address its mind to —not that it hasn't been doing so; I think it has. I agree we have to address our minds and souls to this issue as it relates to trucking. Again, I repeat what I said to the Chairman: When I'm in cabinet between 12:00 and 1:00, part of my presence will be related to a brief report on Mississauga, and I will certainly communicate the concerns of this committee in relation to the trucking industry generally to my cabinet colleagues.

Mr. Chairman: Perhaps when you are conveying that concern, you could also convey the concern of your own brother, who has talked very eloquently and presented some very interesting figures in his capacity as head of the emergency department of a particular hospital here in this city. He is very

concerned and speaks reasonably well and sanely about the whole problem of extricating people from accidents. Unfortunately, your ministry—the Ministry of the Solicitor General—the Ministry of Transportation and Communications and the Ministry of Health do not seem to be able to get together and come up with a program of extrication.

Hon. Mr. McMurtry: Some months ago I established a committee on this very issue through the Solicitor General's ministry in relation to the "jaws of life," as some of these extrication devices are referred to—at least one particular method. I told my officials in the Ministry of the Solicitor General to secure Dr. Bob McMurtry's attendance whenever possible because, I say with some degree of brotherly pride, as a surgeon he is an internationally known specialist in dealing with trauma. I agree with you this is an important issue.

Mr. Chairman: When the Liberal transportation critic and I met with representatives of all three ministries, along with the Simcoe Rescue Squad, we had the feeling that the representatives of the Ministry of Transportation and Communications saw us with disdain. They didn't like the fact that we were saying a private, voluntary group has been doing an excellent job, that it is going out of business because it is not funded by anybody, and that all three ministries are still fighting over which ministry gets control of it.

People are dying on the highways. Highway 400 is a good example of where the Simcoe Rescue Squad has saved people from being quadriplegics. Your brother puts an estimate of $1.7 million on the cost to the taxpayers of maintaining a quadriplegic, and yet this government still can't put its act together and decide who should have control. In the meantime, until you decide which ministry is going to get the spoils, if you like, of running these systems, the very least you can do is fund the Simcoe Rescue Squad.

Constituents of mine are being maimed for life on highway 400, and the taxpayers are paying an awful lot of money to keep some of these people in hospitals or other institutions for the rest of their lives. As your brother quite rightfully points out, $1.7 million is an awful lot, yet we can't seem to come up with something like $50,000 for an outfit like the Simcoe Rescue Squad, which in an average year will save four, five, six people from that kind of misery, and prevent expense to the taxpayers.

Hon. Mr. McMurtry: I agree this is an important item. I am trying to develop a program for firefighters across the province. My own preliminary view is that the fire departments have a special role to play in this area, and we are trying to develop something in the Ministry of the Solicitor General. I will welcome further discussion on this topic when we get to the estimates of the Solicitor General.

Mr. Chairman: Your point of order, Mr. Ziemba?

Mr. Ziemba: If you are going to participate in the debate, Mr. Chairman, may I suggest you give up the chair?

Mr. Chairman: Fine, would you like to take the chair, Mr. Ziemba?

Mrs. Campbell: You will need some tough Good Samaritan legislation if you are going to develop this.

Mr. Chairman: Mr. Lupusella is next on my list, and then Mr. Philip is on my list, Mr. Ziemba. You were serious about that?

Mr. Ziemba: I wasn't kidding.

Mrs. Campbell: I think it is a conflict of interest.

Mr. Acting Chairman: Mr. Lupusella, you have the floor.

Mr. Lupusella: If I may have your indulgence, I would like to raise another aspect in relation to the Mississauga disaster.

Hon. Mr. McMurtry: Mississauga miracle, please. I quote the mayor of Mississauga; I think she officially dubbed it as such.

Mr. Lupusella: Okay, thanks for the correction.

One of the major problems encountered by firefighters and other officials participating in the operation was the closeness of train tankers transporting dangerous chemicals—chlorine tankers to propane tankers.

My first reaction is, CP Rail I am sure would be sensitive enough to immediately implement a guideline—or recommendations, until the public inquiry takes place—to make sure these train tankers are located quite far from each other. There is a great danger involved when an explosion of one of the two takes place.

My prime question is: Is the Attorney General going to get in touch with CP management to find out if they are going to apply this immediate guideline to separate the tankers? If he doesn't get satisfaction, is he going to get in touch with the federal Minister of Transport to make sure this simple guideline is going to be implemented immediately?

Hon. Mr. McMurtry: Obviously a great deal of concern has been expressed with

respect to the makeup of train 54 and the proximity of the propane tank cars and chlorine tank cars. Our concerns have been expressed to the Canadian Transport Commission, which has the authority to regulate. We don't have to ask CP to do it; they can be ordered to do it by that agency, so we are dealing with them and the federal government.

You may be absolutely right that such a regulation should be implemented immediately. They are certainly considering that.

[11:00]

I would like to make a general observation that is really not intended as an answer to your concern, which I share. One of the curious features of this accident is—I am speaking only for myself—it may turn out the rupture in the chlorine tank was not caused by the propane explosion. It may be, and I am only mentioning this because you might be interested in it, that the presence of the chlorine may have saved many lives as a very lucky fluke.

The view of some of the experts who viewed the site is that the rupture in the chlorine tank, the large hole that we saw in the photographs from the last day or two—and that I saw a little earlier—was caused by the derailment and the collision that occurred. If the propane tank had not exploded in the manner it did, a number of people could have been seriously injured, or worse, because the explosion—in the view of some experts—carried many tons of chlorine up into the atmosphere where it would diffuse very quickly, and actually avoided a major escape of chlorine into the countryside.

I mention that only for your interest. I am not suggesting that because of that chlorine tank cars and propane tank cars should be in close proximity. I share your concern.

The evidence may turn out that not as a matter of good management but as a fluke, the propane explosion actually saved many lives because it did carry many tons of very lethal chlorine gas into the atmosphere where it could not do any harm. That's one of the features of this that has not yet been resolved. The Canadian Transport Commission is looking at regulations that should be implemented immediately to address the concern you have expressed.

Mr. Philip: Mr. Acting Chairman, I might point out that even though the debate this morning was very interesting it was all completely out of order since it dealt with the Solicitor General.

Mrs. Campbell: Yes, exactly.

Mr. Philip: I hope now that you are in the chair you will keep the committee in order in dealing with the Attorney General's estimates, Mr. Acting Chairman. I would like to deal with some of those aspects of the Attorney General—

Mrs. Campbell: On a point of order: I guess Mr. Warner has left us, has he? He really did have two further questions, and he was entitled to speak, as I understood it. If he is not here, you can't do much about it.

Mr. Philip: I am wondering if the Attorney General has had an opportunity to read the transcript of the inquiry by the resources development committee into the operations of the Ontario Highway Transport Board.

Hon. Mr. McMurtry: No, I have not.

Mr. Philip: I think there were a number of interesting facts brought out there. The other evening at Cardinal Carter's dinner I was very pleased when Mr. Shoniker came up to me and said he understood the reason why I asked the questions, they were questions that had to be asked, and that it wasn't a personal matter between him and me. I appreciate the fact that he had a lot more graciousness and understanding than some other people who were questioned before the committee. They have since said less pleasant things about some of the questions I asked.

My concern is that a quasi judicial body must not only be fair but also must appear to be fair. The overwhelming evidence, if you had an opportunity to speak about it the other night with any of the people at the Ontario Trucking Association, is that the Ontario Highway Transport Board had been operating in a way that was just a little too casual for a quasi judicial body.

I am wondering, first of all, since the subcommittee consisting of Mr. Lane and Eric Cunningham and myself are drafting, and will have completed by next week, an initial draft of our proposals for the resources development committee, if you have any particular guidelines or recommendations you think should be implemented in dealing with quasi judicial bodies, regarding the conduct of these bodies?

For example, have you read the Interstate Commerce Commission's papers on how the regulatory bodies in transportation down there should operate, particularly those in a judicial type of capacity? They are discussing the whole problem of fraternization between those that are in a judicial capacity and those that are in the industry.

Hon. Mr. McMurtry: I don't have to go outside our own jurisdiction to appreciate

the issues related to quasi judicial bodies. There is a whole host of legal authority in this province, in our common law, indicating what should be the role of bodies acting in this very important quasi judicial fashion.

All of these bodies are well aware, and have been reminded by the courts over the years—some people say it's so basic that it's trite, but I think it always bears repeating—that justice must not only be done, but appear to be done. These bodies are reminded of this judicially. I don't say they have to be reminded on a continuing basis, but there's a great deal of authority in that respect. This is all part of what is generally regarded as the rules of natural justice.

The perception grew that the highway transport board, because of the fact that there seemed to be a very specialized small segment of the bar, of lawyers practising before them, took on somewhat of a clubby-type atmosphere. I'm well aware of these concerns, and I can assure you the new chairman, Mr. Bruce Alexander, is well aware of these concerns.

I have discussed this with him and I know he is determined to maintain the proper perception of the board as a quasi judicial body that is carrying out important judicial functions, and that it must be seen to act judicially and impartially. That requires the exercise of a great deal of common sense and sound judgement, not only in their decisions but in the manner in which they behave on a day-to-day basis in relation to the contacts they have with the people who are appearing before them, and counsel for the people who appear before them.

I have discussed this with the chairman and he is aware of those concerns.

Mr. Philip: I think the chairman being aware of it and being in a position to do something about it are two different things. I think it's a question of finance, in one case.

It seems to me that a quasi judicial body, particularly one such as the transport board, is different from a court in one sense. It has the obligation not only to come out with sound, impartial decisions, but it also has a facilitator role—that is a counselling role to the industry. A lawyer or a company wishing to get advice or wishing to get some insight has to go to the board, because it's the only body dealing with the regulations.

At the present time, in that board, the office of the clerk or of the secretary of the board is so understaffed and so remote that those seeking information are forced to the point where they must go and see somebody who is in a judicial role. I don't know how you can have an impartial decision-making kind of system where the position of what would be the equivalent of the clerk of a committee is such that he is bogged down and he simply can't act in his capacity.

I know we have hearings before the justice committee and people often call and ask for advice. We are fortunate that I can refer them to our clerk and our clerk's office for pretty impartial advice on how they can make their presentation, what the bill consists of and various other things like that.

Unfortunately, at the transport board the office of the secretary is so small and so understaffed it is difficult to do that, and therefore those who are in a judicial-making capacity are forced to act as facilitators. I really wonder whether, in your opinion, that is a good state of affairs, or whether you can see that by expanding the information-giving branch that would be distinct from the judicial branch we might be able to get around that problem?

Hon. Mr. McMurtry: I am not sure I totally understand the problem, partly because, as you know, this board is not administered by the Ministry of the Attorney General but is one of the quasi judicial boards administered by another ministry, namely, the Ministry of Transportation and Communications. My concern in relation to the board has been with respect to this quasi judicial role, the fact it would carry on in a manner that befits any board that is acting in a judicial or quasi judicial capacity.

I will certainly communicate your concerns to the Minister of Transportation and Communications in relation to what you believe to be necessary resources internally, so far as his clerk and those who are serving or behaving as facilitators to assist the industry in the interests of the public. I am afraid I am not as familiar as you are, Mr. Philip, with respect to the role of the board in that respect.

Mr. Philip: One of the other problems is the cost of hearings, and I am sure you are concerned about that. It is much more expensive in the transport industry than applying for a liquor licence or applying to other kinds of quasi judicial bodies, with perhaps one or two exceptions. During the course of the hearings, evidence was presented that the chairman of the board actually suggested to one of the parties that he had better bring more witnesses.

The United Parcel Service case was a very expensive one. In talking to lawyers on both sides of the issue it was fairly clear to me

that they questioned the need for as many witnesses as this. I am wondering if you have any comments on the propriety, first of all, of somebody in a judicial role advising people on either side as to how they conduct their case, in this case bringing more witnesses or not bringing more witnesses or who they might bring as witnesses. Secondly, do you have any advice, from the point of view of your legal background and your interest in quasi judicial tribunals of various kinds, on how you can cut the cost of these hearings, because for a small trucking company to appear as a respondent or an applicant, becomes very, very expensive nowadays?

Hon. Mr. McMurtry: So far as the witnesses are concerned, if you are dealing with a judicial body it would normally be inappropriate for somebody acting in a judicial capacity to offer that type of advice to a litigant on how to conduct the case. I make this as a general observation. When you are dealing with an administrative board with somewhat broader functions you obviously have to have some degree of flexibility, because they are acting in not only a judicial role but an administrative role.

[11:15]

Never having practised before that board I don't have that knowledge of its day-to-day operation, but if a small trucker appears before the board without counsel, for example, there may well be a role for the board to play in giving some advice to that individual who is unrepresented in order to meet whatever the requirements are, particularly if that individual is seeking a licence.

As I see it, a board such as this is not always involved in the normal day-to-day adversarial relationship that a court is. Before a court you have parties, you have the state on the one side and the accused on the other in a criminal trial, or civil trial; you have an adversarial relationship. The judges in that context do not, generally speaking, enter into any discussions with litigants as to how they conduct their case. But when you are dealing in a hearing where it is not of an adversarial nature, as some of those hearings are, then I think it would be appropriate for the board to give advice in the public interest in certain cases.

Mr. Philip: Do you not feel that in the case of a quasi judicial body like this, advice concerning the conducting of a case—and in the case of UPS they obviously had all skilled lawyers; in my opinion it was completely inappropriate in that case where they all have top, very expensive lawyers on both sides, for somebody in a judicial capacity to give advice on the conduct of a case.

In the case of the smaller firms that you are talking about, would it not be appropriate to have the court clerk, who could have a legal background and could be a trained lawyer, perhaps specialized in transport law and transport regulations, to act as an adviser, completely divorced from the judicial capacity and give equal advice to either side, the respondents or the applicants?

Hon. Mr. McMurtry: I think that would be a potentially very difficult role to play. You have to separate out the issues where somebody is applying for a licence and being vigorously opposed as opposed to somebody who may be applying for a licence and only has to meet certain criteria that are laid down by statute and regulations, where there isn't anybody opposing them, but they simply have to meet these standards.

In the latter case, where somebody is applying for a licence and is not being opposed, so you don't have that adversarial context, then I think the role of clerk to that board would be to assist that citizen through the red tape people are often faced with in dealing with government.

However, when it comes to a serious issue, where you have competing interests—not the government that is trying to maintain a proper regulation in the interest of the community as a whole, but when you have got a serious issue, such as you did in the UPS case, where you have the type of atmosphere you have described, with the expert lawyers on all sides—or in something less dramatic, I suppose, where you still have opposing interests, I think once any representative of that body, the clerk, was in the position of giving advice to either side, even though that person was attempting to be as even-handed as possible and totally fair, I think it is a very difficult and potentially hazardous role to play.

That could create misunderstanding. There would always be the danger that one side would think that they might be getting better advice than the other side, and that in itself, when we look at the issue of costs, could only lead to judicial reviews because of the fact the representative of the board, albeit separated from the board members, is acting in a quasi judicial role. Our courts would not regard such a person as separate. They would regard it as an adjunct of the tribunal.

My own view, Mr. Philip, is that this would be an almost impossible role to play even by the most fair minded and knowl-

edgeable individual. I would be interested in Mrs. Campbell's views in that regard.

Mrs. Campbell: I certainly couldn't support that proposition. I think even the appearance would be totally opposed to any kind of natural justice. It seems to me those sorts of cases would invite a review and therefore you would be adding to the costs in the long run. I don't think a court official or a tribunal official should be giving advice, save and except in such cases as the Attorney General has mentioned, where there is no adversarial interest at all and he is simply helping them to get through the regulations, the maze of red tape.

I think it would be a very poor kind of substitute. I have to say to the Attorney General, however, having sat through some of those hearings, I was simply appalled at what came out at those hearings. I wasn't present for all of them. That was pretty bad.

Mr. Acting Chairman: Members of the committee may be interested to learn that Mr. Trudeau has just resigned.

Mrs. Campbell: Oh, he has? Oh.

Mr. Acting Chairman: Are you surprised?

Mr. Philip: From his seat in Parliament, or as leader of the Liberal Party?

Mr. Acting Chairman: As leader of the Liberal Party.

Mrs. Campbell: I didn't think he would resign his seat.

Hon. Mr. McMurtry: It is sort of an end to an era.

Mrs. Campbell: We've seen the end to two eras this year.

Mr. Acting Chairman: Is there further debate on vote 1401 at this point?

Mrs. Campbell: Well, Mr. Chairman—

Mr. Philip: I was just carrying on. You took us all by surprise. I for one had a great deal of respect for the former Prime Minister and I am sure the news has created an emotional feeling in members of all parties. He was a great man and I hope he will continue in his role in Parliament, if not as leader of the Liberal Party.

Mrs. Campbell: I would not like it to sound as though it were an obituary. He has seen the situation, he has responded to it in a responsible fashion and I am perfectly certain you have not heard the last of Mr. Trudeau. I am sorry it came to that, of course, but his whole story is still to be reviewed and don't count him out. That is all I can say.

Mr. Bradley: It's always interesting to read in the paper that he is not going to resign and then have the news come out.

Mrs. Campbell: Yes.

Hon. Mr. McMurtry: Yes. Once again we have been told by the experts how he was going to hang on to another election.

Mrs. Campbell: The experts are sometimes confounded.

Hon. Mr. McMurtry: Yes. I must confess to a feeling of some emotional impact by that announcement. I have come to know the former Prime Minister to some extent during the last four years and have felt a great deal of personal admiration for him as an individual, in his concern about some of the issues and how he responded to them, but certainly if the information and the news is correct it certainly ends a very remarkable chapter in Canadian political life.

We all feel some varied emotions in seeing anything as dramatic and as exciting as that come to an end, although I share the thoughts of Mrs. Campbell, I am sure Mr. Trudeau will still have an important role to play.

Mr. Bradley: It may be contagious.

Hon. Mr. McMurtry: I certainly hope not.

Mrs. Campbell: He surely will be freer now to play his role in the Canadian unity question.

Mr. Philip: It may well be he will go down in history as certainly the better of the two Prime Ministers we have had in this decade, but that is a personal point of view and I'll get back on to the subject at hand.

Mr. Acting Chairman: Are you an historian or is that purely editorial comment?

Mr. Philip: That is purely editorial comment. I am a historian, as a matter of fact, and I'll let you have the first copy of my book when it is out in a couple of years.

I would like to deal with the quasi judicial tribunal again. During the hearings we were able to hear evidence that I think, and certainly Mr. Cunningham thinks, showed that one particular lawyer violated the transport board act at least three times during the hearing of the UPS case.

I am talking about that section of the act that says somebody in the quasi judicial capacity, namely the board members, may not meet with one side in the absence of one of the other sides. Yet this lawyer clearly had interaction on three occasions with the person who was hearing the case, without dealing with matters that were demonstrated to be related to the case. Representatives of the other side were not present.

I am wondering what your feeling is on how to deal with the profession. What can

be done in the profession that will eliminate this kind of situation?

I am told by lawyers—and none of them will say it on record—they were very anxious to be friends with the people who were in a judicial capacity at the transport board. Therefore I can understand the pressure on a practitioner appearing before that board. If somebody from the transport board fraternized with them, or talked with them in the corridor about a case, they would be reluctant to say, "This is improper and therefore I want to report it," or "I want to advise the other side of it."

At the same time I think somebody who is a member of the profession has an obligation to that profession to act in a professional way. Breaching the act in three points and in three parts by meeting with Mr. Shoniker, as one lawyer did—once in which he brought somebody from the Bundespost and they talked about the effect of UPS on the post office in Germany, once in discussing witnesses, and on one other occasion; I forget what the precise manner was, but it was at least three times, as the evidence came out in the committee—I am wondering how you get professional discipline.

Is it a matter of training? Is it a matter that should be referred to the Law Society of Upper Canada to come out with a code of ethics specifically dealing with the matter of appearing before a quasi judicial tribunal? What is your opinion on this? I suspect, from stories I have heard in the industry, this is not an isolated case.

Hon. Mr. McMurtry: The basic principle is that all lawyers in this province, and I assume other provinces, have a duty to uphold the law. If anyone knowingly breaches a statute that is related to his professional conduct, as opposed to perhaps his operation of a motor vehicle on a highway, it is a serious matter. The degree of seriousness relates to all the circumstances. Any citizen —any interested party—can refer such a matter to the law society for disciplinary proceedings.

[11:30]

Mr. Chairman: I wonder if the Attorney General would be willing to review the transcripts of the resources committee—

Mrs. Campbell: I think you have your tongue in your cheek.

Hon. Mr. McMurtry: No, not at all.

Excuse me, Mr. Chairman, but I have to make this observation, as Mrs. Campbell has suggested that I made this statement with my tongue in my cheek: I realize that she said this with a smile on her face, and we have a certain amount of good-natured banter back and forth, and I don't take it personally, but in view of the fact that all of this—

Mrs. Campbell: I didn't.

Hon. Mr. McMurtry: No, I appreciate that. I certainly appreciate that and accept that, but due to the fact that all of this is on the record and in the permanent annals of this House, I want to make the observation that my view is the law society does treat these matters very seriously. I realize that there will always be a certain amount of controversy and a certain amount of speculation as to whether the law society does react to the degree that some people would expect in relation to disciplinary matters involving one of its members. I am aware of the fact some people are of the view that it does not.

I am also aware of the fact that many lawyers feel the law society is very tough on its members. I want to indicate that my perception is the law society continues to undertake its vital responsibilities in that respect in a very serious manner. I think it's important that every citizen appreciates that these matters can be referred by anyone to the law society, and the law society has the responsibility to pursue them and take the appropriate course of action.

Mrs. Campbell: I have a suggestion for Mr. Philip. He might address the transcript portions which indicate these breaches as he says. I was not clear about the Bundespost matter—whether the evidence was as strong as Mr. Philip indicated. There certainly was evidence that they did not discuss the UPS case; that was countervailing evidence. Be that as it may, that transcript is referred to the Attorney General, and if the Attorney General feels strongly about it—he is also a citizen of this province—he might look at the matter from the point of view of referring it to the law society. That would then test the matter for all purposes.

Mr. Philip: That was my suggestion, since neither the Liberal transportation critic nor our lawyers—although we were getting fairly quick courses in law—

Mrs. Campbell: Very valuable. You were paying for them. That's very nice.

Mr. Philip: If the Attorney General would take it on himself, as the chief justice officer in Ontario, to review the transcripts, and if he feels there has been a matter concerning this particular lawyer which should be referred to the law society—then he might refer it. I'm less concerned about punishing a particular lawyer; the admissions, I think, were punishment to a certain degree.

As to seeing if something could be done so that other people do not commit the same errors, I would be more interested in seeing whether the law society has some advice concerning the practice of lawyers before the transport board, and whether or not it can do something to improve the manner in which lawyers practise before the board.

Hon. Mr. McMurtry: I appreciate Mr. Philip's concerns, and it would be helpful to me, given the very lengthy hearings and Mr. Philip's knowledge of them, if he or his caucus could select the portions of the transcripts that are of concern to them. I will not only review them myself, but as a matter of course I should refer it to the law society.

I should not act as an intermediary to determine whether it should or should not go to the law society. I am a member; I am a bencher. Theoretically, I am in a position to sit on any discipline hearing, or vote on any matter.

The approach I have taken is not to make a personal judgement as to whether it should be referred to the law society but simply to, in view of your concern, refer the matter to it. I will indicate to the law society I feel I have a duty to do that—that the chairman of the justice committee of the provincial Legislature has indicated concern and that I would therefore like them to review it.

Mr. Philip: I have asked our clerk to pull the transcripts of the appearances of Mr. Shoniker and Mr. Sommerville before the resources committee. I would also advise the Attorney General that I will be asking under his estimates in the Solicitor General, rather than taking time out now, questions concerning the Ontario Provincial Police investigation of certain allegations of wrongdoing that came out during the inquiry or the questioning of Mr. Quinn and some of the other people. I would appreciate if the Attorney General would advise me before I ask some of those questions, and I will accept his counsel on it.

I think it is very important that we not deal in the Solicitor General's estimates with any matters that will in an way affect a provincial investigation by the OPP. If it is presently doing that investigation. But if the Solicitor General and the Attorney General can somehow give me some advice on that before the Solicitor General's estimates come up I can act with the kind of prudence which may be necessary in dealing with the area under OPP investigation.

Hon. Mr. McMurtry: I cannot tell you now just where that investigation stands. I cannot even recall whether I have received any interim report at this stage. Obviously if I did it didn't make much of an impression on me. I don't honestly recall, but I will have that information by the time the Solicitor General's estimates commence.

Mrs. Campbell: I wonder if I could just follow through on this matter of tribunals, since we have taken that order. I was very appreciative of the Attorney General's position in the House yesterday, when I raised the question of tribunals, boards, commissions and branches of ministries because I think for a long time there has been a kind of hiatus where some of the boards or some of these commissions and everything else seem to be relegated to the ministry which seems to be the functioning ministry, rather than being reviewed as a matter of the administration of justice. That was the point I was trying to make in the House yesterday.

I appreciated the Attorney General's attitude: that he must review them from that point of view to ensure we are not in any way affected by some internal policy decisions which the persons appearing before these various boards would be unaware of. There is no question in my mind, having worked a good deal in the ComSoc area, that one does tend to be appearing with one's hands somewhat tied behind one's back in knowing just exactly what it is the various boards are looking for.

This is particularly the case with vocational rehabilitation, as it has been developed for children over the years. It also applies to, for instance, Ontario Housing Corporation policies. We tried desperately to get them to enunciate them for us at the residential tenancy hearings and it did seem to me there was no room for that kind of secrecy. There was no doubt that those who are on that committee were frustrated by the fact OHC seemed to believe it had the right to have policies which were known only to itself.

These affect people in our society in a very real way today. I am hopeful a general review will be undertaken and, of course, what you do about branches of ministries I am not sure. That is a delicate matter for you, but I still believe it is within your purview in the overall administration of justice.

Hon. Mr. McMurtry: I agree.

Mr. Warner: Mr. Chairman, it is fairly obvious that the proceedings of this committee are very much different from the proceedings of other committees.

Mrs. Campbell: Yes. We don't know who we are dealing with.

Mr. Warner: It works in a very unusual fashion, however. As I mentioned in my opening remarks, I have many items which I would like to raise and it is becoming apparent to me that I am not going to have the time to deal fully with those matters. What I will do as we get closer to the end of the hours is compile a list of questions I have on various subjects if I haven't had the time to raise them. I will give those to you and ask you to respond to the questions I raise and provide the information. In that way I am able to raise the questions I think are important and you would have a chance to respond. I am not going to have the time, and the last thing I want to do is to use more than my fair share of the amount of time which is allotted.

There are two things. If you remember, when we first started there were three items. I got through one and there are two others. The only thing I want to—

Mr. Chairman: Mr. Warner, you would have had your opportunity, because Mrs. Campbell interjected earlier and said you were on before me, but unfortunately you were out of the room so I went ahead of you.

Mrs. Campbell: We remember the two items.

Mr. Warner: I am not about to take the role of the chairman at this point. In my opening remarks I made a strong pitch to the Attorney General regarding illegal dog fighting, and what I asked him is if—

Mrs. Campbell: Illegal dog fighting?

Mr. Warner: Dog fighting which is illegal.

Hon. Mr. McMurtry: I have a dog, Chester, who fights occasionally, but generally he is lawabiding.

Mrs. Campbell: Do you bet on him?

Mr. Warner: I assume he doesn't bite you.

Hon. Mr. McMurtry: I don't bet on him.

Mr. Warner: I understand we have positions which are different and that is fine.

Hon. Mr. McMurtry: No, I don't think we do.

Mr. Warner: Oh, we do. If I was the Attorney General I would allocate the $50,000 to hire the special investigator or appoint an OPP undercover officer assigned to the humane society. However, I gather that isn't going to occur.

Hon. Mr. McMurtry: Let me just make my position clear on this, because I think there has been some misunderstanding. The OPP is following up any leads. It is not the role of the OPP to be a messenger boy for the humane society or anybody else. I don't say that to indicate any lack of respect for the humane society, because I have great respect for the work the society does. The OPP is following up every possible lead in this respect. They don't need direction from the humane society as to how to investigate these matters. They obviously have to consult on a continuous basis with the humane society, and I understand they are. Arrests have been made and charges are being proceeded with.

[11:45]

It is obviously a totally unacceptable type of conduct, we believe, and I am speaking as Solicitor General because really this should come within the Solicitor General's estimates, both from the standpoint of the police and from the standpoint of the humane society, which is also under an act administered by the Solicitor General. I was prepared to deal with it under the Solicitor General's estimates.

Again, they are doing what they can to pursue any lead. I think every police force would like to double or triple or quadruple its force, and I mean this very seriously, in order to act in a greater preventive role with respect to criminal activity of all kinds. Dog fighting is a very vicious sport, it is very brutal and that type of brutality can only breed brutality in other areas. I want to make it clear that I take it very seriously. Given the resources, given what is known, I think we are doing what we can. We really do believe this brutal phenomenon is pretty isolated in the province.

I will not accept a suggestion that the OPP is not doing everything reasonable. If we had a force that would allow us to search every square mile of the province where this activity might be carried on, we would. In the best of all possible worlds you would like to do that. But given the obvious restrictions that any force has in any criminal type investigation I don't think we can reasonably do more than we are.

Mr. Warner: If I provided you with the lead would it be followed up in conjunction with the humane society?

Hon. Mr. McMurtry: Yes, absolutely.

Mr. Warner: Obviously I don't want to put the information on the record, because people will disappear very quickly.

Hon. Mr. McMurtry: Mr. John Takach is back with us.

Mr. Warner: I can give you a name and a source. I would like to know it would be followed up and someone would report back to me in a reasonable length of time as to what has occurred.

Hon. Mr. McMurtry: I can give you that absolute assurance.

Mr. Warner: Okay.

Hon. Mr. McMurtry: Mr. John Takach, the director of crown attorneys, one of my major contact points with the OPP and other police forces, is sitting there. If you would talk to him right now, I can assure you it will be followed up and we will let you know. We are happy to have this information.

Mr. Warner: Okay.

Mrs. Campbell: This matter was raised with Mr. Drea, and it seemed to me what came out of that discussion and I'm subject to being corrected—was that there was a need for some investigation in depth. The problem is with trying to get to the point where you have sufficient information to get the OPP working on it. It is no denigration of the OPP and no denigration of anybody else. It semed to me the major problem facing the humane society, with its lack of resources, was the ability to do the kind of initial review necessary in order to get it to the OPP. I think that was the reason for their request as I understood it. Was I wrong?

Mr. Warner: That is correct.

Mrs. Campbell: I think that was why they felt it was important to have somebody working much more closely than just as a result of a complaint. By the time the complaint comes it is pretty difficult to sort it out in view of the fact that the occurrence is over and people have dispersed. It is part of it, as I understood it.

Hon. Mr. McMurtry: I will be meeting with Mr. Hughes executive director of the Ontario Humane Society. I saw Mr. Hughes briefly in Mississauga when he was there in the context of his concern about the animals in that area. I had hoped to have a chance to discuss it with him on that occasion but I didn't. I will pursue it with him and keep you informed, Mr. Warner.

Mr. Warner: The other item I had asked for was a report on the status of the Daniel Hill study or investigation.

Hon. Mr. McMurtry: Yes. We'll see if we have that here. Dr. Hill reports to me every couple of months as to his progress. I wanted to make some preliminary observations and look to see if we have any up-to-date information. I think I can say with confidence his report is going to be as comprehensive a report as has been prepared on this continent. The number of bases that he has touched and the number of people he has consulted is truly impressive and is a great credit to Dr. Hill and the manner in which he conducts himself and the expertise he possesses.

The latest word I have is—and I will quote directly from the report:—"The hearings and interviews have been completed and the research and analysis has been under way for a period of time. The drafting of the actual report has commenced and the report will be completed by no later than the end of March 1980."

Mr. Warner: Okay. I don't know Dr. Hill. I just hope he isn't like Dr. Tuzo Wilson.

Hon. Mr. McMurtry: He is a truly—

Mr. Warner: Dr. Wilson promised us a report and then it was months and then some more months and more months, and it turned out to be a year or something after he was to turn in the report. I will have to trust this gentleman when he says the end of March means the end of March.

Hon. Mr. McMurtry: I can arrange a meeting between Dr. Hill and yourself, Mr. Warner. Would you like that?

Mr. Warner: I would be pleased.

Hon. Mr. McMurtry: He is, I think, one of our impressive citizens in this province. I think you might enjoy meeting Dr. Hill and hearing directly from him. When he states by the end of March, I think he means it. I think that is the way it is going to happen.

Mr. Warner: This is your report from him, and you mention he has reported back every couple of months. He had some sort of a—

Hon. Mr. McMurtry: He and I meet approximately every two months to discuss what he is doing. We do not discuss any of his findings of any of his views. We don't touch on that at all. He simply gives me reports as to the number of people he has contacted generally, and the manner in which he is conducting the report. I have been enormously impressed with the thoroughness of it and the access that all interested persons have had to Dr. Hill.

That has been my interest. As to his conclusions, I have absolutely no idea what his findings will be or what his recommendations will be. We have just avoided talking about that, because in my view it just would not be appropriate to do so.

Mr. Warner: Do you have the impression he may be asking for some legislation or making the recommendation?

Hon. Mr. McMurtry: I have to repeat what I have said. He has been entirely scrupulous, before he has finished his report, not to share with me—or to my knowledge any other living person—what his report is going to con-

tain or what recommendations, if any, are going to be included.

Mr. Warner: Would you think it would be appropriate to request an interim report around Christmas?

Hon. Mr. McMurtry: No, not when you have a final report as close as his. Dr. Hill is known to some of the members of the committee and I think they would indicate they have great confidence in him. If he thought an interim report would have been of assistance we would have had an interim report. Given the overall sensitivity of the topic, I think one report is probably desirable. We will arrange for you to see Dr. Hill at your mutual convenience.

Mrs. Campbell: Just on that point, I would like to say I was one of those who had some concerns about the inquiry itself. It seems to me the inquiry having been pursued, it would be absolutely wrong for any of us to enter into discussions about his possible findings. I think that note should be sounded, because I don't think any of us should be in any way trying to influence the outcome of that report. I would not want to see an interim report that was anything but a matter of perhaps an expression of timing the release of the report or something of that nature. I think that would just kill the whole thing since I am doubtful to start with. I have some concerns about it.

Mr. Warner: There is a final item that I had—and I don't know that we have enough time to really go through it—and that is the unpaid child support payments.

Mrs. Campbell: This is the fourth item.

Mr. Warner: Fourth item, sorry.

Mrs. Campbell: You only had three to start with.

Mr. Warner: I get up to three and I get lost.

Mr. Chairman: My count is five, Mr. Warner, but we are running out of time. Can you bring it up under another vote, or do you wish the vote held over?

Mr. Warner: I don't see any reason to lose the vote. As you say, at one o'clock the official guardian will be here and we can discuss that.

Mrs. Campbell: Could we have the question posed? I have forgotten this one.

Mr. Warner: The unpaid child support payments and the relationship—what can be done from the Attorney General's direction.

Mr. Chairman: Mr. Renwick, did you also have something under vote 1401?

Mr. Renwick: Yes, I do. I have one matter particularly for the Attorney General's comment.

Mr. Chairman: Fine. We will hold over the vote. We will reconvene at one o'clock.

Mrs. Campbell: At this time we will be discussing with the official guardian his various funding.

Mr. Chairman: We can go until six if that meets with the pleasure of the Attorney General and the members of the committee.

Mrs. Campbell: We can leave things here. The Attorney General may not have any great pleasure.

The committee recessed at 11:58 a.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Attorney General

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Third Session, 31st Parliament
Wednesday, November 21, 1979
Afternoon Sitting

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 1:26 p.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL
(continued)

On vote 1401, law officer of the crown program:

Mr. Chairman: We are still on vote 1401. However, we did agree that at one o'clock we would be asking questions of the official guardian. We welcome Mr. Perry. I will ask—

Mr. Renwick: Mr. Chairman, before you proceed, I am quite—

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Whatever arrangements you have made—I would ask the indulgence of the committee, I have one matter which I want to raise at some point. I have to be absent from shortly after two o'clock until about 4:30, but I understand you are sitting until six o'clock or seven o'clock tonight.

Mrs. Campbell: Six; nobody said seven o'clock.

Mr. Chairman: Six is the latest, Mr. Renwick.

Mr. Renwick: Oh. I thought it was so exciting we might want to continue on through dinner hour. I would like to have the opportunity to—

Hon. Mr. McMurtry: You people wouldn't want to keep me late for the Joe Clark dinner. I'll have to change.

Mrs. Campbell: We wouldn't want you to not be there to represent the interests of the people of Ontario.

Mr. Renwick: I would like; if possible, before this vote is passed later on today, to have an opportunity to deal with the one matter that I have.

Mr. Chairman: We will hold the vote for you, Mr. Renwick.

Mr. Renwick: Thank you.

Vote 1401 stood down.

Mr. Chairman: Since we have asked the official guardian to be present, I think that we must deal with that matter at this point. Mr. Attorney General, do you have any opening comments on this before I ask Mrs. Campbell to start her questioning?

Hon. Mr. McMurtry: I think I touched on this in my opening statement, but there may be some matters I could add, and should add. But I think in the interests of getting on with it, perhaps we could just start off with Mrs. Campbell's comments.

Mr. Chairman: Mrs. Campbell, your comments and questions.

On vote 1403, guardian and trustee services program; item 1, official guardian:

Mrs. Campbell: Thank you, Mr. Chairman. I indicated earlier to the Attorney General that I had taken the opportunity of discussing my concerns with the official guardian so that he would be aware of the questions. I think it is important that I publicly state that on three occasions in this committee I have really tried to support your pulpit plea for funds for travelling.

Hon. Mr. McMurtry: He wouldn't be here now—

Mrs. Campbell: Yes, well, there you are, you see.

Hon. Mr. McMurtry: We thought it was important that he be here for the estimates.

Mrs. Campbell: Never did I hear such an impassioned plea from any pulpit in any church in Toronto.

I am going to put my position in the broadest terms to give the official guardian full opportunity to respond as he sees fit. The three areas of my concern are, one, the matter of kidnapping, which seems to have grown in my perspective over the years and is a matter of concern to the official guardian, and I am sure to the Attorney General.

The second matter is the matter of representation of children. I would like to ask the official guardian to go over pretty clearly what his procedures are now for empanelling a group of members of the bar in this particular exercise.

The third one is his role, in so far as children are concerned, before the Criminal Injuries Compensation Board. I want to know whether he has given any thought at all to, or whether he has discussed with the Attorney General or anyone else the possibility that in cases where the injury to the child is not a permanent physical injury but may have traumatic effects over a period of time, there

could be some kind of disposition on a monitoring process of the child—not by the board, but under their aegis—rather than a lump sum settlement. I think that is a bad approach in some of these cases; I am prepared to give my reasons, but in shortness of time I would be happy just to throw those out and ask for comment.

Hon. Mr. McMurtry: Can I make one preliminary observation? I think you said, Mrs. Campbell, that you brought this concern to my attention. I thought your concern in relation to children and the Criminal Injuries Compensation Board was the matter of compensating them as opposed—

Mrs. Campbell: That was originally what I wanted, a recognition.

Hon. Mr. McMurtry: —to attempting to monitor the situation over a period of time to see whether there was going to be any aftermath. I must admit that until this moment I wasn't sure of your—

Mrs. Campbell: No. In fairness, I did not discuss that aspect with you. I discussed it with Mr. Grossman and in turn with the official guardian.

Hon. Mr. McMurtry: I see.

Mrs. Campbell: Mr. Grossman was going to discuss it further with the official guardian.

Hon. Mr. McMurtry: I see. I just wanted to make that observation because I hadn't had a chance to consider that aspect of it.

Mrs. Campbell: No.

Hon. Mr. McMurtry: It is my off-the-cuff view, and I haven't checked the legislation so I may be mistaken, that we will probably require some change in the legislation. As a matter of interest—and this is not in the context of just injured children but in respect to personal injuries generally—we are concerned about this aspect when it comes to people who are known to be seriously injured but when we don't know just what is in store for them down the road.

I thought you might be interested in knowing that there is a committee, established through the bench and bar, which I have been involved in. It is a committee that is chaired on an ongoing basis by the Chief Justice of Ontario. There is a committee studying this problem of compensation—under the chairmanship, I think, of Mr. Justice Howland, one of the Supreme Court trial judges—to decide whether or not we can develop some better way of compensating seriously injured victims than having to make a determination which, generally speaking, must have some degree of finality for the parties when the circumstances might dramatically change down the road.

The deliberations of this committee may be of relevance to the problem you pose. I thought I would just bring that to your attention.

Mrs. Campbell: I am very happy to hear that. I like to think, although perhaps it is presumptuous of me, that perhaps I played some role in bringing what I felt was the compensation board's lack of recognition of the children who had been victims of criminal activity to the attention of the Legislature. Now I would like to look at some refinement of it, both for the purposes of the child and the eventual purposes of the family.

I think Mr. Perry is fully aware of my position and concerns and perhaps he could address those three issues from my point of view.

Mr. Perry: First, since reference was made to the observations made by me during a so-called sermon—

Mrs. Campbell: They were not observations. It was a plea from the pulpit.

Mr. Perry: It is quite obvious that my plea was put in a fashion which impressed the member, but the Attorney General knew it was only made to provide comic relief.

Mrs. Campbell: Any time you talk about funds, that is what it is.

Mr. Perry: Had it been serious I am sure I would have been in The Hague today and not here, but no application was made for approval to make that trip. We will withhold that however, until next month. Then we will make another proposal to the Attorney General with respect to that matter.

Mrs. Campbell: Can't you try another vehicle?

Mr. Perry: First, with respect to the adoption problem, I haven't had an opportunity to discuss this matter with the Attorney General but I doubt that I could or should make any statement with respect to this matter because it is in a state of flux. I do know that the ministry is extremely concerned about abduction and indeed I understand that one reason why the deputy isn't here is because he is giving his attention to this problem on an international level.

This is a matter of great concern on the international level. I have attended four conferences at which the question of the international kidnapping problem has been a major concern. No one has come up with an answer.

The observations I make would not represent anyone's policy, but I can indicate

to you that there has been, as you probably know, unified legislation proposals with respect to reciprocal enforcement. Without those it would be very difficult to control international kidnapping cases. Quite frankly, I am waiting with a considerable degree of anticipation to find out what has occurred at a recent conference in The Hague on this whole question of abduction.

Dealing with abduction and the other matters you have raised, the ideal situation and one which I know the Attorney General has very strong feelings about—and it certainly forms the root of the program fostered within my statutory jurisdiction—is to ensure that the civil legal rights of every child, in every situation affecting the child, will be protected by someone—if not by the official guardian, by some other agent, the community.

I can tell you categorically that since I have been the official guardian, and prior to that, no problem involving the civil rights of a child has been brought to our attention which hasn't been dealt with in some manner. It may have been by way of a referral to legal aid, to another agency, to an agent of my office, or it may have been dealt with directly by my office.

This is an ideal goal towards which we are always moving and towards which we shall continue to move. In this regard we have had every possible co-operation from the Attorney General; that is expressed in his expressed concerns and the action he has taken with respect to a number of these matters.

With respect to abduction generally, I don't feel in a position to make any observations. I can say, however, that when a child has been abducted from a foreign jurisdiction in another province or country and brought to Ontario and it is brought to our attention, we certainly examine the particular case to determine what action, if any, could and should be taken by the Office of the Official Guardian.

In a very recent case the Attorney General of an eastern province advised the Attorney General in this province that a father had brought two children to Ontario and that the mother did not have the funds to come to Ontario to protect her interests with respect to the custody of the children in this province. In that matter, the official guardian has undertaken to intervene on behalf of the child who is now here. In other words, it was the cause of action to be protected. If the cause of action is in Ontario, regardless of where the child is, in Ontario or elsewhere, we feel we have a responsibility and will assume whatever role is appropriate in the circumstances.

In this particular case a motion has already been launched by the father to obtain a custody order, although there is one in Prince Edward Island where this matter initiated, and I am intervening. Without her absence, we are going to a judge, saying—

Mrs. Campbell: Without her?

Mr. Perry: Without her presence.

Mrs. Campbell: Presence.

Mr. Perry: Yes. We are going to a judge and are saying, "She is not here. She is unable to come, but the important thing is the rights of that child who is now in our province and we will obtain an order directing the official guardian to take whatever action is necessary to protect that child."

That of course is piecemeal. There is no statutory authority for it. I anticipate all of these matters with respect to abduction will be resolved in due course after deliberations on the international and national scene.

Mrs. Campbell: Before you leave that particular point, as far as you are concerned that matter arose by reason of the rights of a mother. I would like to understand where the rights or the welfare of the child become involved in a situation of that kind, because it seemed to me there have to be some considerations given to that child's rights and the child's welfare so that if you intervene I take it you are intervening on behalf of the child and it is not via an arm of the Attorney General of Ontario intervening on behalf of the mother's rights. I am confused as to your role there.

Mr. Perry: The Attorney General could probably be of more assistance than I can with respect to the total picture. My involvement can and will be only on behalf of the child. I have never had a directive from an Attorney General to do other than intervene on behalf of a child, nor have I ever been advised not to intervene on behalf of a child where the interests of the child warranted our intervention.

Mrs. Campbell: When you get a case of this kind, what procedures do you follow in trying to ascertain what is in the best interests of the child? I am opposed to all these abductions but I can see that in some cases perhaps the welfare of the child is better served—I am not making a judgement on any particular case—but if the welfare of the child were better served by its being here, what procedures do you follow to ascertain that in your intervention in the courts?

Mr. Perry: That is the exact and the most difficult problem which has to be resolved.

Uniform legislation proposes that a custody order made in another jurisdiction will be given effect in this jurisdiction and uniform legislation indicates that only in exceptional circumstances will the court in the jurisdiction the child is in, will interfere.

That may well be necessary, but speaking on behalf of the child only, my concern will not be the efficacy of an order on the interest of the child and that may well put me against the entire system in terms of my thrust.

Mrs. Campbell: Bully for you.

Mr. Perry: It may be very important to have enforcement legislation, because we cannot condone kidnapping, but in terms of the best interests of the child, if it is necessary for my office to take a position within the ambit of whatever legislation is passed by this province in the best interests of the child we will continue to do so. I hope the best interests of the child will always be a determining factor, having regard to the necessity to have legislation to avoid abduction. I am sure you would agree we cannot condone abduction.

Mrs. Campbell: All right. But you are already intervening, as I take it, in this specific case.

Mr. Perry: This is right

Mrs. Campbell: I don't like talking about a specific case, but let us take it as though it were just a case in point. When you intervene, at what point are you intervening as a result of an investigation as to the welfare of the child and at what point are you intervening really by some reciprocal arrangement —informal at this point in time, I take it—as a result of the mother's application in some other place? I think it is important that we understand that.

Mr. Perry: There are two factors in abduction cases. First of all, to be advised that there is a child in this province who has been surreptitiously brought to this province by a non-custodial parent. That is one factor, to be made aware of the situation.

Second, once you are aware of the situation, to find the child. This is true of cases where children are taken out of this province and the Attorney General or my office gets some request to be of assistance to the mother.

[1:45]

First of all, the matter is out of our jurisdiction if the child is not here; and, secondly, in any event it's very difficult in many of these cases to locate the child. Once the child has been located and it's determined the child has been brought here surreptitiously by a non-custodial parent, my thrust is to then determine by investigation whether it's in the best interests of that child to be here.

Mrs. Campbell: I want to know how you go about it.

Mr. Perry: How do we go about that determination? I don't want to be trite about this, but you have to look at the particular circumstances—

Mrs. Campbell: Of course.

Mr. Perry: —interview the person with whom the child is located, indeed interview the child, and then correspond with people in the other jurisdiction to determine what occurred there; for example, was there an order made, and the circumstances under which that particular order was made. Then we put it all together to see if we can help a judge in our jurisdiction resolve the matter.

Mr. Warner: Under what statutory authority are you able to intervene on behalf of the child in the court?

Mr. Perry: Section 107(2) of the Judicature Act says, "The official guardian shall be the guardian ad litem or next friend of any minor or other persons in accordance with any statute, rule of practice, or an order of a court." This is why I must seek an order from a court to put my office in motion if in a specific matter there is no statutory mandate on the official guardian to automatically become involved, as there is in many estate matters.

Mr. Warner: You tell me that in some situations you have the authority to move independently; in other situations you require an order from the court.

Mr. Perry: That's right.

Mr. Warner: Can you tell us—I confess I don't know the scope of this—how many cases are we talking about over the period of a year?

Mr. Perry: Strictly abduction cases?

Mr. Warner: Yes.

Mr. Perry: Anticipating that question I've done some research in my office and last year we had 17 abduction cases where the child was in Ontario with other than the custodial parent.

Mr. Warner: In each one of those you intervened on behalf of the child?

Mr. Perry: Some of those matters can be resolved simply by negotiation with the parties or with the lawyers representing the parties. In some others we used the judicial system to resolve the matter, which means getting the parties before a judge so he can determine the best interests of the child and

determine whether the child should be permitted to remain or be returned.

Mr. Renwick: I come with the same gap as my colleague in my knowledge about your authority. Let me put the question directly to the Attorney General. Is the Attorney General of the opinion that in order for the official guardian to perform this enlarged function which is presaged in these reports, in the amendment to the Child Welfare Act and so on, it requires further legislation in order to provide the background of legislative authority for the official guardian to act?

Hon. Mr. McMurtry: At this time it has not been suggested that we require further legislation. I would be very interested in recording Mr. Perry's views in that regard. It has been my view that the official guardian —and I think I've made this clear to Mr. Perry—required additional legislation in order to properly carry out his functions he would make that request to me, as he, of course, is more familiar with the needs of his office on a day-to-day basis, having been a senior member of the official guardian's office for many years before he became the official guardian. Are you talking about his general mandate as well as any specific statutory responsibility he might have?

Mr. Renwick: Yes, as I say, I come at it without any special knowledge about it but obviously the remarks you made in your opening remarks, the report and the amendment to the Child Welfare Act would indicate to me that there is some change in that an office which has traditionally been restricted to proprietory matters with respect to children and special matters such as might come within the purview of an order under the Judicature Act and that, what is envisaged here is a very significant extension of the function of the official guardian. An extension is envisaged into what I might call the personal rights of children and the adequacy of their representation in court, dealing not with property interests and dealing not with the kind of case which always gets the headline, that is these interprovincial or international abduction cases at all, I'm speaking purely about Ontario's situation. I would be very much surprised if our law is so all-inclusive that this new role of the official guardian can be encompassed within existing jurisdiction.

Hon. Mr. McMurtry: I should have mentioned we intend to introduce legislation before the House rises to deal with the custody and access character of our family law reform. I haven't looked at that legislation in recent days but that certainly, as I recall, further refines in statutory form the role of the official guardian in this respect. I can't give you any details but fundamental to that legislation is the acknowledgement, as I understand it, of the role of the official guardian in child representation not in what you quite properly referred to as traditional property interest—assets that may belong to a child—but in their welfare. We have child welfare legislation, of course, that provides the general framework for the protection of the person of the child.

Perhaps Mr. Perry could lead both of us through this legislative—I hate to use the word maze, but then neither you nor I can, Mr. Renwick. Would you like to add anything to what I've said, Mr. Perry?

Mr. Renwick: Just before Mr. Perry does, I'd like to ask him, if I may, some direct questions about this.

Hon. Mr. McMurtry: As you are well aware, the courts have recognized this role of the official guardian vis-à-vis the welfare of children and these custody and access matters.

Mr. Renwick: However, that process has developed. There is a process with respect to custody and access matters. There's a process that has somehow grown up with respect to these interprovincial and international abduction matters. I want to set all of those aside. I can understand that there is a proposed advance or regularization or whatever it is about the representation of children in custody and access matters. We'll leave the matrimonial questions, custody and access, abduction, property matters and all those things—abduction in the sense of parental abduction—to one side.

I was struck by the statement in the House of our colleague, the member for York Centre (Mr. Stong), representing as he did children and juveniles in criminal matters. Of the—I think the figures are correct—186 juveniles whom he had acted for, 182 of them were without any parental framework when they came to him. They came to him totally detached from any parental background of any kind. He acted for them.

My problem relates to where in this, as I envisaged this system—because it makes specific reference to the provincial court (family division) and the questions of authority or jurisdiction and because of the case which is cited in these reports; perhaps I can turn now to the official guardian—does your connection with those children come? What is the nexus by which somehow or other somebody begins to think about this child and the official guardian?

Let me assume for the moment that the children's aid societies are operating efficiently and well. I don't want to be told they come from the children's aid societies or something. I'm talking about the child in my favourite location in Toronto, in Riverdale, who has some problem. How do you make connection with that child; how do you become a person who represents that child; and what is your authority for doing so?

Mr. Perry: It's important that you realize that in other than those areas where there is a statutory responsibility on the official guardian to act, primarily in estate matters, the official guardian will act when there is no other adult ready, willing, or able to act for the child. In criminal matters, as you well know, the child has always had the right, in this province, to a lawyer, to counsel, and indeed—except as a very peremptory matter—judges will not proceed to try a criminal matter involving a child, unless that child has the right to counsel.

That of course is reflected in the policy of the government and the province by the right of a child to exercise his rights to obtain a legal aid certificate. This is done on a regular basis. The front-line protection of the rights of children in criminal matters in the court system itself is the duty counsel. The duty counsel in this province have been directed that they should provide whatever legal expertise is necessary and if they don't provide it directly for the child, they shall see that the matter is adjourned so the child will have an opportunity to get a certificate.

Mr. Renwick: This is precisely the point. I gather that we're—

Hon. Mr. McMurtry: I would like to add this. As I understand the role of the judiciary, the individual judges view themselves as having the responsibility to see that the child is properly represented in the court structure, quite apart from the duty counsel. Mrs. Campbell being a former family and juvenile court judge will correct me if I am wrong. I have certainly had this understanding and belief for many years. Some judges may of course be more sensitive to this responsibility than others, but all judges are well aware of their role in that regard.

So when the official guardian refers to front-line protection, in so far as representation of children in the courts is concerned, I'd like to add that the judiciary see their role as to protect the interest of the child, quite apart from the important role of duty counsel.

Mr. Perry: Thank you very much. I think that if there was any cause for misunderstanding in that respect the Attorney General has clarified that. The court in the first instance—certainly, when the matter gets to the judge, and I thought I'd said it before—is not likely to proceed with the matter involving a child.

May I get to the direct questions in respect to the official guardian in this role? The official guardian's role primarily, traditionally, has been in civil matters and not criminal matters. We do not act directly for children in criminal matters. Primarily, as I indicated before, we act in matters in relation to the personal rights of the child and when there is nobody ready, willing, and able to act. And the ability to act, or the capacity of an adult who proposes to act, is a very important aspect of it. However, we get involved directly in juvenile delinquency matters in situations in which we are providing independent representation in a child welfare proceeding and where a matter out of those proceedings arises which brings a child into the criminal phase of the system. In those matters we have some alternatives: One is, you have acted for the child in the protection from the case. Do you refer the matter then for a legal aid certificate and put him with a man who may have had greater expertise in criminal matters than anyone in the office of the official guardian, or it may be a private lawyer acting in the same circumstance, or do we continue to act? Obviously if you can avoid getting another lawyer involved with the child, you do so.

But it seems to me the important issue here, so far as my office is concerned, is that if we cannot for some reason provide that legal service in the criminal setting, we make sure that the child doesn't go unprotected.

Mr. Renwick: I think there is some very direct opposition to what I am hearing with respect to what is being said and what the Attorney General said on pages 11 and 12 of his opening statement and what is envisaged in this report.

It seems to me that the Attorney General indicated a very much enlarged program to give to children not indirect or residual rights but specific and direct rights of representation, not by way of a basket clause, but in a very disect and positive sense.

I read in the Attorney General's statement with much interest: "We have been faced with the most difficult task of devising a program that will meet the requirements of expertise, independence of the legal profession and a higher degree of public accountability." Then there are some glowing re-

marks about the committee on the representation of children.

"The committee concluded, and I agree, the official guardian's office offers the advantages of familiarity"—et cetera—"wide public confidence. At present the development"—

Hon. Mr. McMurtry: Could I just interrupt? I am looking for that section you are referring to in my opening remarks.

Mr. Renwick: Pages 12 and 13.

"At present the development program is well under way. A director of child representation and legal staff have been appointed. Training sessions are being conducted for panels of lawyers across the province," and so on and so forth.

Hon. Mr. McMurtry: This is in relation, of course, to section 20 of the Child Welfare Act.

Mr. Renwick: I understand that.

Then I refer, if I may—and I don't want to go on at great length—to page 25, volume 2, of the report of the Attorney General's Committee on the Representation of Children in the Provincial Court (Family Division), where the majority view was that as between the legal aid committee and the official guardian the responsibility should go, on section 20, to the official guardian.

It then goes on: "The office of the official guardian has a working familiarity with the issues and practices that obtain in the provincial court (family division) with respect to proceedings under part II of the Child Welfare Act."

I didn't really hear Mr. Perry say he had a working familiarity with that.

Mr. Perry: That's another entire matter. It's the second question Mrs. Campbell raised, to which I propose to address some comments.

I was addressing my remarks to your question in relation to criminal proceedings. Of course, the Child Welfare Act, part II, is not related to the criminal proceedings.

Mr. Renwick: I understand that.

Mr. Perry: I think I have said all that I can with respect to the involvement of our office in the criminal proceedings; it's limited to the areas I indicated. The next area is what I proposed to refer to briefly.

Would you like me to do that now, sir?

Mr. Renwick: Just to satisfy a query about what the committee said here. Then it goes on—

Hon. Mr. McMurtry: I wonder, can I have a copy of that committee report? Mr. Perry was a member of that committee and in fairness to Mr. Perry I would like to take a look at this. It sometimes can be inadvertently taken out of context.

Mr. Renwick: Page 26. I always take things out of context; mostly advertently, sometimes inadvertently.

Mr. Perry: That does not deal with the criminal aspect at all. You realize that, sir?

Mr. Renwick: The sort of thing I'm worrying about is that I sense that nothing is going to change, it's just disguised as change. That's my problem with it.

Mr. Perry: You mean as a result of this report, sir?

Mr. Renwick: Let me just complete this: "The office of the official guardian has acquired a considerable experience in representing children in diverse contexts." The diverse contexts really are related to traditional matters of property, custody and access and some other areas where, under the paternal jurisdiction of the court or in some residual way, your office is involved.

"The office of the official guardian is well suited to provide centralized administration and co-ordination. The office of the official guardian is well suited to provide a central source of information and experience to lawyers who are representing children. And the office of the official guardian has a recognized public mandate to act on behalf of the children of the province."

Where are the gaps now, as you see them, Mr. Perry, in the protection of children?

Mr. Perry: The gaps, sir? Well, there was a gap with respect to the representation of children in child welfare matters because of some statutory constraints. I think that that is set out in the Attorney General's report. That gap, of course, will be—we hope—filled when we implement section 20.

Mr. Renwick: I understand.

Mr. Perry: So I am not aware of any gaps once the federal legislation with respect to juvenile proceedings has been enacted, keeping in mind that the child now has a right to a lawyer in any and all criminal proceedings. I'm not sure of any gap in those two areas.

Mr. Renwick: I want to now then move away from section 20. I want to move to the criminal law area, the provincial court (family division), with respect to its criminal jurisdiction under the Young Offenders Act.

Are you saying to me that you, as official guardian, have no position in those cases?

Mr. Perry: We have no direct mandate to intervene on behalf of a child in a criminal matter. That doesn't worry me so long as a child has access to legal aid, which will give

the child access to the criminal bar. My only concern—if there was a concern—would be that the child is plugged in to the system and has the advantages of legal aid. As we indicated, with the attorney's assistance and that from the judge to the legal aid to the duty counsel to the social workers involved with the child, the child is not likely to get to the court without the benefit of counsel in a criminal matter. So I don't see any gap.

Mr. Renwick: No, I understand that.

Let me state my view that in a scale of one to ten in importance of matters related to children, I put criminal matters much higher on the scale than I do what happens to his property rights, or what happens under the child welfare system. I put them as touching upon the life and liberty of the child.

I understand that the system is that a judge, in his paternal sense, will say, "Well, I will not hear this case because this child is not represented." And I understand that he can go to legal aid if he knows where the office is.

I would have thought that when the Attorney General, on page 11 of his remarks, said:

"Because most children will lack both the financial capacity and the intellectual maturity to choose their own lawyers, it becomes a public responsibility to ensure that lawyers who will be representing children not only have special legal skills and personal sensitivity essential to protecting the interests of children, but also operate within a framework that offers a greater degree of public accountability than would exist if the child were simply left to his own resources in dealing with his lawyer. Accordingly we have been faced with the most difficult task of devising a program."

I take it the program we're talking about does not relate to what I consider to be a very essential gap in the representation of children; that they are going to be left to the traditional system, the paternal system, the application for legal aid, whether they happen to find their way to Mr. Stong's office to be represented, or in some other way. We're going to leave that whole area of children's rights and representations in the state which it presently is.

I'm addressing that to the Attorney General.

Hon. Mr. McMurtry: In fairness to Mr. Perry, indicating that—first of all when you talk about leaving it to the traditional system, I don't think there is any question that the views of the juvenile and family court judges now are very much directed to what is in the interest of the child. That is the paramount consideration for them and I would say that in every case it's given greater weight than the interest of the community, in relation to mischief that might be caused by that child. Of course, there are some people critical of the juvenile system and, to put this in the right context, who say that the juvenile system has become so preoccupied with the welfare of the child that perhaps the interest of the community in so far as being protected from say vandalism and other illegal acts is concerned has been given the secondary consideration.

The impression is that the child has somehow been abandoned—

Mr. Renwick: No.

Hon. Mr. McMurtry: —in the system. I just want to put this in proper perspective. I don't agree with those comments but I can tell you, as the Attorney General of this province I hear them frequently—that the juvenile system has become so preoccupied with the rights and interests of the child that the rights of the citizen are being given a very secondary consideration.

Mr. Renwick: Mr. Chairman, the Attorney General is not here to extemporize and make some other distortion of what is being said. He is here to answer questions with respect to his estimates and the votes of money which we are going to make. I want to refer the Attorney General to part I of the introduction of the Committee on the Representation of Children. You will note that the first report is the report of the Committee on the Representation of Children in the Provincial Court (Family Division). The second report is of the Attorney General's Committee on the Representation of Children.

Our terms of reference may be summarized as follows: To consider ways in which children can be more effectively represented in proceedings under part II of the Child Welfare Act and under the Juvenile Delinquents Act. As far as I can understand it these reports which have been made, and to which great obeisance has been given, have not dealt with the question of the representation of children in that jurisdiction known, colloquially, as the provincial court criminal aspect of the work. Am I correct, or am I not correct about that?

Hon. Mr. McMurtry: The committee is still in a position to deal with all of these issues. If I may be permitted, with respect, I want to continue in order to put this in the proper context. In dealing with what appeared to us to be the major gaps at the time, the com-

mittee saw other more major gaps than the representation of children in the juvenile system and in my view, there is no gap there.

That is not to suggest it cannot be improved and that we are not addressing ourselves to it. I start with the judges and their overriding concern about the welfare of each child that comes before them on a juvenile delinquency matter. I refer of course to the social service resources available to the courts in that respect, on a day-to-day basis. I refer to the duty counsel that are available every day and the legal aid system that is in place. While we are continuing to explore ways of perfecting child representation in every area, I do not regard that as a gap in the present system.

[2:15]

That is not to say it cannot be improved. I've indicated, continuously, to the law society that when it comes to representation in criminal matters, they must continue to develop a high degree of specialization for representation of both adults and children. I want to make it clear that while we're not claiming any degree of perfection for child representation in this area, I have to say that I do not regard it as a serious gap. It's like every other form of representation, we can improve the quality of it. We will continue to address ourselves to ways in which we can improve the quality.

The official guardian's office, as Mr. Perry has said, does not have a direct mandate in that area, although the official guardian's office is consulted from time to time. I can recall, since I became Attorney General, specific cases which I've asked the official guardian's office to direct themselves to, in relation to the criminal justice system as it applies to children. But that does not fall within their day-to-day mandate. If we are of the view that there is a gap in that area and the official guardian's office should have a more specific role to play in the criminal justice system, we will explore that. We'll be very happy to have your comments in this regard, Mr. Renwick.

You must also appreciate that there are many individuals in the private bar who specialize in this area or representation, who believe we must strike the proper balance between what is provided through the official guardian's office directly and what is provided by the private bar, who feel that they are highly qualified to provide the adequate representation in this area. We would certainly be very interested in your views, Mr. Renwick, if you think the official guardian's office should have a broader mandate in this area than it does at the present time. I want to invite your views, but I wanted to place the matter, with the greatest respect, in what I view, rightly or wrongly, to be its overall context.

Mr. Renwick: I have obviously misunderstood what is being conveyed publicly and as a member of the public this is the way it came through to me: That the representation of children in this province, in the judicial system, in all of its aspects has been given a review to determine whether it was satisfactory; that the committee that was appointed to deal with it was a committee appointed with the terms of reference I stated.

On page 47 of the first report it said: "Your committee is aware that the practice of child representation in this province, is presently in an embryonic stage."

I refer to page 34 of the second report. It states in paragraph 55 very much what the official guardian has said: "As a party to the proceedings the child has the right to instruct counsel and to seek a certificate under the provincial legal aid scheme." In a very accurate but very trite statement of the position, a very important statement but one which, the adequacy of which is to be investigated: "In most courts, it is the practice for duty counsel to appear extensively in juvenile proceedings. Alternatively, a child may obtain a legal aid certificate and instruct counsel from the private bar." Again, very much what Mr. Perry was saying is his mandate.

"As a result of our inquiries we stated that the majority of judges of the provincial court (family division) expressed the opinion that the representation afforded a child by duty counsel at the adjudication stage is satisfactory. There was, however, a strong view expressed by these judges that the representation afforded by duty counsel at the disposition stage is not entirely satisfactory."

It goes on with the various subdued statements about what the problems were: Duty counsel may not have sufficient time to prepare the case; there may not be enough resources for duty counsel; and, duty counsel may not have the specialized skills.

"We would, at this stage, repeat the view that we have previously expressed: that is, the need to establish a uniformly high quality of legal representation for children." This is in the portion of the report dealing with the juvenile delinquency proceedings.

"Accordingly we recommend, for reasons mentioned, that lawyers who represent children under the provincial legal aid scheme in juvenile delinquency proceedings should satisfactorily complete a training program, be

required to reattend further programs as they are represented.

"It seems to your committee that the difficulties which we have identified as existing under the provincial legal aid scheme require further consideration." Then they recommended pilot projects.

"The provision of legal services to children should be afforded in the same manner. We recognize, however, that in relation to proceedings under the Juvenile Delinquents Act, the provision of legal representation to children under the provincial legal aid scheme is firmly established"—and so on.

I guess it is my misconception, but I think it was broadly shared publicly, that the statements which were made with respect to representation of children extended to a review and survey and a desire to implement changes across the whole spectrum. It is quite clear to me, from my knowledge of both the county court system and the Supreme Court system, that it is most unlikely that any child is going to appear in those courts without immediate steps being taken to have that child represented. Everyone in this room well knows that no child will get that far without having legal representation, because no lawyer will dare go into one of those courts representing a child without at least some modicum of real preparation and attention to the case.

Mr. Attorney General, what was concerning me was, whether, firstly, the official guardian's office was, in the language of the day, the correct "mechanism" for the development of this matter; secondly, I thought it was all-inclusive. I didn't think it was limited only to, important as it was, clarify the child welfare section under section 20, the act which was passed and which will come into effect on January 1. I think those were all very important, but all of the matters that spoke to the inadequacy of the representation of children in those areas are compounded, in my view, in the inadequacy.

If I were a juvenile and in trouble with the law, I know very well I don't have any trouble if I run into Alf Stong. I may have trouble if I am escorted into the court, don't know what my position is, don't have any financial resources and I'm not—in the language of this report—"of the maturity" to make some choice. A judge, in a paternal way, says, "You must speak to the duty counsel," or, "Duty counsel will look after you." The duty counsel says, "You can get a legal aid certificate" or "the police or someone will help you to get a legal aid certificate." That's not the kind of representation I thought you were addressing.

Hon. Mr. McMurtry: I should make it clear that these reports and the recommendations are communicated to the law society in relation to the administration of the legal aid plan and any concerns with respect to the quality of counsel who operate within this plan. Again, I repeat what I said earlier. I have had a considerable degree of communication with the legal aid plan indicating my concern for enhancing the quality of representation.

The basic issue you appear to be raising—and it's a very interesting one and a very important one—is whether or not the administration of the legal aid plan, in so far as it comes to representation of children in the juvenile court system, should be taken out of the hands of the law society and administered by, say, the official guardian's office. That is the decision that has to be made.

We continue to monitor this system. We continue to express our concerns to the law society with respect to increasing the quality of representation in all criminal matters, certainly in matters involving children. I am of the view that children in the juvenile court, given the overriding concerns of the judge with respect to their welfare, are being very well protected by the system.

As I said before, an increasing number of people think they're too well protected. I don't agree with that. If you have any specific cases to bring to my attention where the system that is in force has not provided adequate or fair representation for the child, I would be very happy to have those cases. It would certainly be of assistance to me.

Again, I think we have to come to grips with the central issue, whether the official guardian's office is going to determine who is representing the children in these courts or is it going to be the legal aid plan. Obviously, this is a somewhat contentious issue.

Some of the private bar are somewhat critical of our role and the official guardian's role in respect to the programs for child representation under section 20. As a senior member of the bar, Mr. Renwick, it would be of assistance to me to have your views as to whether or not there should be some significant adjustment in the legal aid plan to ensure the quality of representation that we would all, obviously, like to have.

Mr. Renwick: If I may just respond, the Attorney General and I obviously weren't communicating. I didn't appear to be making any particular issue. I was trying to say to the Attorney General that as a member of the public, sitting in the Legislature, divorced from my legal training and background, I had understood that what the

Attorney General was saying, particularly in the glowing remarks which he made about the Committee on the Representation of Children, was that there would be now adequate representation of children in all aspects of their affairs.

I was naive enough to have assumed that we were talking about a decision having been made that the office of the official guardian had been chosen as the method by which we would be assured that that would take place. I now find that it is only one portion of that area which is being dealt with by the official guardian's office. That's my first concern. I think it's a most serious gap, considering the length of time this question of children-child representation has been abroad.

Secondly, once I had got clarification of the extent and scope, I wanted to have you justify to this committee—quite properly justify to this committee and give us the reasons—why you selected the official guardian's office as distinct from what a minority on the report appear perhaps to have favoured, something else under the legal aid plan or some other method by which this would be assured?

I had thought that the decision had been made that the sensitivity that is referred to here that lawyers who represent children must have for children's matters and the training and the various panels that they were undergoing across the province would have been with respect to the provision of those services in the provincial court (family division) and the provincial court (criminal division) related to juvenile offenders.

I find it extremely difficult that you can accept the criticism of the bar, as requiring training programs and training patterns to be established to give special consideration to the sensitivities needed for children in one area; disregard a goodly part of what the report says with respect to the representation of children and the gaps pointed out by the provincial court judges about the Young Offenders Act, the duty counsel, the inadequacy of preparation, study, training; and, then, fall back on what we all had known. That was the real gap. I thought you were addressing it. I would have thought that anybody reading your remarks would have felt that was so. **[2:30]**

Hon. Mr. McMurtry: I have to take some exception to your remarks inasmuch as they suggest we are not addressing ourselves to that issue. We have continued to address ourselves to that issue in a number of ways as long as I've been the Attorney General. We work very closely with the law society and the legal aid plan in that respect.

The reason we have chosen the official guardian's office as the vehicle for child representation for training sections in respect to child representation in section 20 matters —also this will be expanded probably in relation to custody and access—is because we're dealing with a field that is a developing field in so far as the law is concerned. And that's not to suggest in any sense that it is more important than the criminal justice system, because of course it is not.

The concept of separate child representation, for example, in relation to child welfare matters, is a new development. It had been traditionally assumed that the children's aid societies had the mandate and their counsel were to provide that representation. Similarly, in custody and access, it's a relatively new development in the law.

Up until relatively recent years it was assumed that the parents' counsel would bring the necessary facts to the court's attention; the child did not have to have independent legal representation. Rightly or wrongly, the experts in the field until relatively recently did not see the need for independent child representation in these areas. We perceived the need in the Ministry of the Attorney General, if I do say so, before a number of other people and developed a program in those areas. The need had not been perceived before, except to a limited extent.

With respect to the representation of children in the juvenile justice system, particularly if it has anything to do with the child's liberty, I'd like to think, as a member of the bar of Ontario, that the need for separate, independent representation had been recognized for a long period of time and there was no issue about that. Our efforts have been to improve the quality of the legal aid system in respect to a traditional representation, the independence of which has never been in question, where it has it has in these other areas. That's why I separate the two. Not because it's of any less importance but because in many cases it's of much more importance. We are, as the Ministry of the Attorney General, monitoring reasonably carefully the quality of representation that exists in these courts.

The reasoning behind our proposals that the law society have adopted in York county, for example, with respect to the point system, is to improve the quality of representation in the criminal justice system including the juvenile justice system. Certainly we expect our section 20 training program to develop new ideas with respect to delinquency

matters, that will be carried into the juvenile justice system. We've found that the increase in the number of legal aid clinics has helped to improve the quality of representation in juvenile court, so far as juveniles are concerned.

We are expecting that our review of the new federal Young Offenders Act will be another opportunity to continue to upgrade or enhance the representation of children in juvenile court. The view of the profession in Ontario, at least in my lifetime, is there has been no issue as to the need for separate legal representation of a child in a serious matter. We are aware of many juvenile matters of a less serious nature where children have not been represented. In earlier days the judges took it upon themselves to be both the tribunal and the counsel for the child, but that might not always have been wise. I don't think it was in any way a manifestation of a recognition of a need to treat the child fairly.

Actual independent child representation in the juvenile court system has probably increased dramatically through the development of the legal aid plan during the past 11 years. While we're looking for any further improvements, we have not yet felt that the official guardian's office should be the formal structure through which to enhance the quality of child representation in juvenile matters.

I was just given some statistics, in relation to this. I'm not sure I quite understand the context. Perhaps Mr. Campbell, who is our most direct link in the ministry with the legal aid plan, might be able to add something with respect to—

Mrs. Campbell Interpret his own handwriting.

Mr. A. Campbell: I've just been informed, Mr. Chairman, in terms of the statistics for 1978-79, that there were 1,330 certificates paid out for Juvenile Delinquents Act representation and the duty counsel provided assistance in approximately 16,000 instances. Just by themselves they indicate a degree of activity it's a little hard to interpret, unless one knows, for instance, the extent of the representation by duty counsel in every case. So, although this doesn't speak to the level or intensity of representation, it does represent a fairly high degree of activity in that area.

Mr. Renwick: I want to make sure my point is clear. I understood that there was a legal impediment as to whether or not there was representation under the Child Welfare Act for children, by reason of court decisions which threw questions on the ability of it. I understood the legal impediment and that that required an amendment to the statute. That wasn't the problem. The problem has been the quality of the representation that children have had.

To my surprise you have a report from your committee which, while giving a pat on the back to the quality up to date, points out what the system has disclosed under the authority of questions raised by your own appointees, the provincial court judges, as to what the problems were in that area. Problems identical to those they found under the section 20 problem with respect to quality are under the juvenile offenders part.

You select one part and you say, "It's inadequate and we will do something about it" and you remove the legal impediment and you proceed to take the steps which in your judgement were the proper steps to take about the quality aspects of the service and you choose the official guardian to do it. Others may have chosen some other form.

The identical strictures that are made against the duty counsel system and the legal aid system with respect to the quality of representation—that is the special nature of it—received no attention. I don't get any indication from you that you are now going to address serious attention to that aspect of the problem by telling me, for example, that the committee is going to continue its work in that field to come up with a new system: that questions are actively being pursued with the law society as to whether or not the time has come that a qualitative value must be made in respect of the qualifications of lawyers who will deal with juveniles in the criminal system. I get the impression that you are saying, "That's okay now, we will be gradually making some improvements but I am not going to do it."

Hon. Mr. McMurtry: I have said no such thing, Mr. Renwick. You are listening but you are not hearing me.

Mr. Renwick: I am hearing you. I am hearing you very clearly.

Hon. Mr. McMurtry: I indicated to you that the quality of child representation so far as the juvenile justice system goes will continue to be among the highest of priorities so far as the Ministry of the Attorney General is concerned. We are continuing to develop initiatives to improve the system. I don't think I've gotten through very well. I don't know, Mr. Campbell, if you have anything you would like to add to what I have said.

Mr. Renwick: You've gotten through and I think you understand me and I think I

understand you. I am simply saying I'd like to know when you are going to take the initiative in the juvenile criminal system that you've taken under section 20 with respect to the quality delivery of representative services for children.

Hon. Mr. McMurtry: The Attorney General's committee and their recommendations and the concerns in relation to that were of course communicated to the law society. The law society, I understand, shares these concerns. I have given you some indication of what has been done to enhance the quality of representation. The judges are monitoring it. As to some entirely new program, I don't have any suggestions in mind. The Attorney General's Committee on Representation of Children is still in existence. To give you another illustration, I meet from time to time with some of the crown counsel who appear in the courts to talk to them about the quality of child representation—crown counsel who have, I believe, a sensitivity for the rights of the child. We have not indicated any intention to proceed with any new massive training program in this very important area.

I am very happy to have your comments and your concerns. I am sure they will be of assistance to me as we continue to pursue avenues to improve the system with the law society. The fact you have expressed the concerns certainly can only help.

Mr. Campbell is assistant deputy minister in charge of policy development in the Ministry of the Attorney General, as you know. This has been a very important priority of his for some time. I regard him as our chief link with the law society on issues such as this.

Mr. Campbell took a year's leave of absence from the Ministry of the Attorney General to become the director of the Parkdale Legal Aid Clinic to put himself in closer contact with these problems, some of which we have touched upon today. He probably would have liked to have served in that job longer, but because of my concern with respect to the importance of the development of our programs in this area. I persuaded Mr. Campbell to return to the ministry after his year. He, I am sure, left to his own devices, would have liked to have extended somewhat beyond that.

I would like you to hear Mr. Campbell's views in this regard. I have pretty much exhausted anything that I can usefully add.

[2:45]

Mr. Renwick: Unfortunately I have to leave at this point. I will be returning. I am now much clearer. I appreciate Mr. Perry's effort to explain. I appreciate the Attorney General's position in these matters. My only comment to Mr. Campbell is I think he probably would have been a greater service to the causes I am interested in outside your ministry than in it.

Mr. Chairman: Thank you, Mr. Renwick.

Mr. Renwick: I will be back.

Mrs. Campbell: I had wanted to address some remarks with reference to the representation of children. It seems to me that somewhere along the line there has been a great deal of muddling of the philosophies of the juvenile in the court system. We have seen it with the statements which have accompanied the Young Offenders Act. I think we have seen them in a lot of the practices. I would say that at no time would I take a position that the representation of children as it refers to the Juvenile Delinquents Act—the procedures—are satisfactory.

Now I am speaking, of course, after a period of time and now I may not be as familiar with the system as I once was, but there were really two philosophies which prevailed in the courts at that time. The one aspect of course is the aspect that a juvenile is a young adult and therefore you bring to the young adult all those facilities in the criminal sense that one provides for the adult criminal. I am rather saddened to hear us talking about the Juvenile Delinquents Act as an act in a criminal sense because, of course, there is no such overall philosophy about that.

Certainly, if I may put it to you, if there is any area that needs investigation and needs to have the bar very much in the picture it is this area. I can give you examples from duty counsel as I knew them. They were constantly torn—I have to tell you this—as to their proper and appropriate function vis-à-vis the juvenile. These were very dedicated people. I have to tell you I have never met finer people anywhere than the duty counsel I knew in the courts, both here and elsewhere, but they did not understand whether or not their role ought to be a purely adversarial role. Were they dealing with children as young adults and therefore should they be dealing in the usual defence kind of situation? Or should they have, in some cases at least, an overall element of concern, particularly with reference to disposition, as to what was in the overall best interests of the child?

I don't know whether that continues, but certainly as they met with me and discussed in general terms their concerns it bothered

me too to understand what philosophy we were operating under. There were clear cases where perhaps it was not in the best interests of the child that he should, shall we say, get off scot-free by reason of the kinds of activities in which he or she was engaged.

I am not sure whether this has been changed, but seven years ago you had the duty counsel who, unfortunately, rotated and with the delays, particularly in the Jarvis Street court, the duty counsel would be working on a case, be relieved of that function, hand it over, and go on to somebody else. There was a lack of continuity and a lack, sometimes, of the philosophical basis. If there is ever a case to be made for some kind of training, some kind of understanding of our philosophy in that court, it seems to me that it is very important that that should be engaged and engaged now.

The Attorney General is correct. I do not think that there was a gap in the sense that a child would be before the courts in a juvenile matter without representation. But there was a very serious gap in the continuity, quite often, at that time, which concerned the judges, the duty counsel and others.

I for one have been one of those who have been rather critical of the philosophical approach of the Young Offenders Act. There ought to be greater opportunities to bring to the child the facilities of the community, in a very different way perhaps from that in the adult division, although perhaps only in intensity and not in any other way.

I would like to make a very strong plea that one look at this; that somebody, at least for the purposes of debate, discusses with the assembly and with others what our philosophy is vis-à-vis the defence of children within the Juvenile Delinquent Act or Young Offenders Act or whatever other statute one operates.

For instance, I am one of those who feel very strongly that we should not increase the age of the child who might be brought before the courts in these matters, simply because of some very bad experiences I had which would indicate to me that we might very well have lost a child if we had to wait until he became 12 or whatever the age. So there are all sorts of ramifications. As I say, I think the Attorney General, speaking on the basis of the gaps, might well be saying something that is at least comprehensible to me but it goes beyond the question of the skill of the defence counsel.

Mr. Campbell is nodding. I guess we're ad idem on this one.

Could you respond to that, because that is the nub of it to me?

Mr. A. Campbell: These are some of the very central issues we are going to be faced with, particularly in the next few months when the new federal proposals for the Young Offenders Act, which have been basically in the works one way or the other since 1965, hopefully, will lurch in Ottawa towards some sort of resolution.

The areas of attention to representation in juvenile delinquency matters have been outlined essentially by the Attorney General. Our division has had for some time a standing direction to put some attention into that area. It is an area that is different to some degree from the question of the role of the lawyer in child welfare proceedings. That question to which you just spoke, the role of the lawyer in a Juvenile Delinquents Act case, is really crucial.

Mrs. Campbell: Exactly.

Mr. A. Campbell: I think in the case of the new Young Offenders Act, the disposition may be a little bit different from the question of the initial finding. In juvenile delinquent matters more and more lawyers are coming to take the view that the state should not have the right to do anything to the child consequent on a finding of delinquency—or whatever the finding is to be called under the Young Offenders Act—unless the state proves to the standard in a criminal case that the child has committed an offence. That is an attitude that has been growing since the Gault case in the United States in the mid or late 1960s.

So there are different considerations in juvenile delinquency cases perhaps from those under section 20. Among these is the question of the role of the lawyer up to the time of disposition. There is an argument that it might be a little bit different when you are canvassing possible dispositions with the court. I know it is an issue that has been given a great deal of attention, particularly by some of the community legal aid clinics who are active in that area. Certainly as more and more work on the Young Offenders Act approaches, that will be an area of increasing concern.

As I say, our division has had a standing direction from the Attorney General for some time to give that area of representation in juvenile cases more attention than it has received before.

Mrs. Campbell: I hope that in nothing I said was I suggesting the court shouldn't have all of the facts upon which to make a finding. My concern really was based on the disposition question.

Mr. A. Campbell: After there had been a finding of delinquency?

Mrs. Campbell: Yes, because of the role of defences.

Mr. A. Campbell: Yes.

Mrs. Campbell: One certainly doesn't expect that one could make a finding without suitable evidence. That was not my position. I sometimes say things that become unclear. If you had that thought that is not what I had in mind.

Mr. A. Campbell: No, I didn't. But I think one of the areas in which there could be more improvement is that some lawyers are not as aware as they should be of what services are available for children when the judge makes a disposition. That is one area the bar is going to be more and more conscious of, partly as a result of the training programs for section 20 of the Child Welfare Act.

Although these streams of administration are separate, a lot of the lawyers who are going to be acting for children under section 20 will also be some of the thousands of lawyers who provide representation in juvenile matters. We anticipate, as a result of the training programs, a general raising of consciousness throughout the ranks of lawyers who act for children on a legal aid basis or on some other basis of what disposition alternatives are available to a court.

We anticipate there should be a spillover effect from the resources that are being put into section 20. We hope the lawyers will become more and more conscious of what services are available for children.

Mrs. Campbell: Perhaps they will be adding their voice to the need for adequate facilities and resources for these children.

Mr. A. Campbell: Yes.

Mrs. Campbell: One of the problems in the courts is that you are constantly trying to find the alternatives in practical terms.

Mr. A. Campbell: Yes.

Mrs. Campbell: I hope I have made my point on that one. It is one that really goes very close to my heart. I would certainly like to have some ongoing kind of information about where you are going with that one.

Mr. A. Campbell: Yes.

Mrs. Campbell: It really is significant I think. The role of a defence counsel for a child may not be, unless we develop that overall philosophy in precise terms, the role of a defence counsel in an adult criminal case.

Mr. A. Campbell: That is correct. But might I respectfully point out that there is one point of view which a number of young lawyers hold in respect to juvenile delinquent matters, quite apart from any role that a lawyer might have in section 20 proceedings. That says that the child has the same opportunity as an adult to sit back and let the crown prove its case. In other words, a lawyer shouldn't help grease the skids to a disposition of delinquency in order to "help the child."

[3:00]

I know it's a matter of some controversy, but there's a strong feeling, particularly among a number of younger lawyers, that the role of defence advocate in a juvenile delinquency matter, at least up until you get that finding of delinquency, should come closer and closer to the traditional role of the defence advocate.

I appreciate there's more than one point of view on that issue.

Mrs. Campbell: There is another matter that Mr. Perry touched on, which I wasn't going to raise but I think I will before he gets into the middle of the whole question of representation, which has been rather moved out of context.

Where an adult is charged with contributing, what procedure is there now to bring the official guardian into the situation, which seems to demonstrate the need of invoking the child welfare legislation? What procedures are there? They were difficult in my time. I heard all of the proceed cases for quite some time in that court. The child, in many cases, was an invisible factor, but we had an excellent crown there, a Mr. Hoffman, who was able to adduce evidence, very often without the appearance of the child.

It was always a problem of what you did with the child, particularly for a judge concerned about the welfare of that child, given the result of conclusions as to the contributing matter. I had assumed, rightly or wrongly, that in my role as a judge it was totally inappropriate and improper for me to take off that hat and become almost an informer or a prosecutor for the child who had been the victim of this offence. The resolution for me was to ensure the children's aid court worker was called into the court to hear the evidence in the proceed case, so that there was an individual apart from a judge who was looking at that child's welfare.

Under the situation that now exists, what happens? How does the official guardian become a part of caring for that child who is a victim in that other matter?

Mr. Perry: As I indicated during our discussion the other day, it's an area of obvious

concern to the judge that the child, who is the apparent victim, not be left in a vacuum without someone being interested. I've considered it and I'm still of the view that in the system the child comes in contact with a number of case workers, family workers, the child's worker or other officers who have a responsibility to put the child in the welfare system if such action is warranted.

I can't envision a situation where a child, the victim in the circumstances, would not have been brought to the attention of the children's aid society; it would be impossible. It would have been brought to the attention of the children's aid society, which as we know, has the primary mandate to protect the rights of the child in this province. The official guardian is not likely even to be aware of the circumstances of a case, but what often happens is the children's aid society invariably, if they need our assistance, will provide us with information in respect to the matter so we can advise them to take appropriate action. Now, you see, we are in what will become the section 20 case where you now have the child in the protection stream. I hope we've built into the legislation and the policy which is now in effect sufficient safeguards so that the child will not be left without proper consideration and proper disposition of that aspect of his problems.

Mrs. Campbell: You disappoint me. I thought from our conversation that we had ironed this one out. I think there is a gap.

The proceed case proceeds as the adult case does anywhere else in a criminal court. The police are involved; the adult male, as so often was the case, comes before the court. The children's aid society, to my certain knowledge, in many cases had no knowledge of the child or of the activity. It was only when you got the evidence in that a judge became pretty concerned about the role of the child. What happened to that child? Did it get lost? Is it forgotten? What happened?

That is what prompted me to ask the children's aid court worker to attend. There is no question in my mind that you have a very possible gap there. If you are concerned with the welfare of the child then certainly there should be some very clear procedure by which that case gets referred to you in your capacity as official guardian, under the Child Welfare Act or in some way.

You did tell me you thought it was now resolved, and you are not saying that today. Perhaps I caught you off guard.

Mr. Perry: I'm sorry. What we've done is establish a line of communication with the crown attorneys, who will as a matter of practice advise us of those situations. Once the matter is brought to our attention we'll either move directly or refer the matter to the children's aid society and then make sure they act. This is an ongoing practice and works quite well to avoid the kind of gap you suggest.

Mrs. Campbell: So the crown attorneys are then very definitely aware of an obligation to advise you of any of these cases. Under what statutory provision, or is that just a regulation?

Mr. Perry: Not being a politician or a legislator—

Mrs. Campbell: Don't say that so proudly.

Mr. Perry: That's with some regret.

Hon. Mr. McMurtry: I'd say that's accurate.

Mr. Perry: If a matter can be appropriately dealt with without legislation—

Hon. Mr. McMurtry: Excuse me; Mr. Perry might have described himself inaccurately as not being a politician, and I just want to make it clear for the record what I mean by that. Mr. Perry does possess a great deal of political sensitivity about these issues, although he may not like to be described as a politician.

Mr. Perry: I trust that in my declining years I may be forgiven for saying sometimes I question the sensitivity of some politicians, although it is not my role to question politicians in any area. Now to get back to this matter on which I have a strong view.

Mrs. Campbell: Especially as a juvenile politician.

Mr. Perry: I share your concern with respect to the possibility, any possibility, that a child's life may go unprotected. This is a very important area. I've mentioned there's no legislative mandate on crown attorneys to advise us, or anyone else, but so long as they respect that responsibility with a degree of sensitivity and an awareness of the rights of children then I'm content.

In addition to that we have a good relationship with the youth bureaus, particularly in Metropolitan Toronto. I speak of this group with the highest possible respect, and particularly for the last inspector who has recently been promoted. We had an arrangement with the youth bureau such that if any of their members were aware of a child being involved in a contributing matter, an abuse situation or any other relevant situation, they would invariably bring it to our attention. I get considerable comfort from the fact that through social service agencies, including the CAS, the crown attorneys, the

youth bureau—or indeed the police department in general beyond the youth bureau—we will become apprised, or have become apprised, of these situations. Although as I said we don't have a general mandate in the criminal field, we do have experienced lawyers on my staff with experience in criminal matters; we bring that expertise to bear if, as and when it is necessary.

Mrs. Campbell: Could I ask the Attorney General if, with Mr. Perry, he would give some further consideration to this area, because it seems to me that very often the job that is not specifically designated to one individual may fall between a group of people. I don't recall specifics of these proceed cases, but in the cases being brought by the youth bureau, for example, the division in that court between the youth bureau and the regular police force and the handling of situations was as different as day is from night; and of course you also get involvement, indirectly, with other forces. Perhaps it shouldn't be made mandatory; I don't really know the answers, but right across this province these cases are going on. I'd like very much to know if there's any way of ascertaining through court records or anything else in how many cases the child is the forgotten factor and no real assistance is made available to that child.

Mr. Perry: Maybe I'm naive, but I honestly don't believe that in the present system, with all the input and the awareness of agencies, police officers, et cetera, children will not receive adequate protection. The child would be, in many cases, a forgotten factor. I don't really believe that's the situation.

Mrs. Campbell: Is there any way of ascertaining the situation; or am I asking you to get involved in something similar to determining how many people didn't get killed because we have crosswalks? I don't want you to get into that, but I do think there must be some statistical evidence in this matter. To me it is one of the vital functions in this area, particularly now that children are recognized for purposes of criminal compensation.

Hon. Mr. McMurtry: We'll certainly explore your concerns, Mrs. Campbell; I don't know where one would gain such statistical evidence.

Mrs. Campbell: I think you should start with the crowns themselves to see what their attitudes are and what criteria they use for reporting on these cases. That would be a starting point. You might find it would be different in a place like the city of Toronto compared to some place in an area that doesn't have the same kinds of facilities we have here.

Mr. Chairman: Mr. Perry, do you have any further comment?

Mr. Perry: No comments on that, but I hope I have an opportunity to speak to Mrs. Campbell's second concern, namely what we are doing with respect to our training programs.

Mrs. Campbell: I have, indeed, great concerns about what you are doing there.

Mr. Perry: If we run out of time, sir, and I'm unable to do that, I will be very—

Mr. Chairman: Why don't you start right away then.

Mr. Perry: Thank you very much.

Mr. Chairman: Did you have a supplementary question, Mr. Warner?

[3:15]

Mr. Warner: I have a couple of relatively brief questions, but I just wanted to indicate I wished you to put me on the speakers' list.

Mr. Chairman: My understanding is that the Attorney General is going to have to leave for just a few minutes. I am wondering if perhaps Mr. Perry can deal with Mrs. Campbell's second question right now, before the Attorney General leaves. He is coming back.

Mr. Perry: As a member of the Attorney General's committee on independent representation, and in addition to that having an ongoing concern about independent representation as the official guardian, I was extremely pleased with our recommendation that independent representation in protection matters be affirmed by statute. Section 20, of course, reflects the Legislature's interest in and awareness of this problem and its determination to do something about it.

It was extremely difficult, within the confines of the committee, to decide whether or not this program should follow the representation program in juvenile matters, namely through the private bar, or whether or not this particular program should be implemented through the office of the official guardian or some other agency.

What we did find is what I hope is a happy medium. As you are aware, our program envisions co-operation between the official guardian and members of the private bar. The private bar, as we know, for a long time has provided legal services for children in juvenile delinquency matters and has attained considerable experience in that particular program and the areas in which it might be extended and improved.

However, with respect to representing children in protection matters, in part II applications, the official guardian or his agent for many years was the only office which had an ongoing interest in this particular program, even prior to the Helmes case, which is mentioned in the Attorney General's report.

As I say, the impetus or the basis of this program is an effort to obtain the co-operation or to utilize members of the private bar. This is a tremendous challenge. It required forming and putting into effect a training program for members of the private bar to assist them to understand various specific problems particular and peculiar to providing legal representation for children.

We have held some seven programs in Ontario between September 10 and November 5. The first was in Sudbury, the second in Ottawa, the third in Toronto, the fourth in London, the fifth in Toronto, the sixth in Hamilton, and finally, the seventh in Toronto.

We took a multi-disciplinary approach to our training program. We involved local lawyers, members of the private bar; social workers representing a variety of agencies and psychologists; and members of the official guardian's office who have had responsibility and gained experience in this area over the past 10 years. We invited members of the children's aid societies, and particularly their legal officers, to our training programs.

Five basic areas were discussed. First we discussed the law, primarily the new Child Welfare Act. There was an opportunity for a good examination of that act by people aware of the implications of the new legislation. We talked about the regulations. Then we looked at the case law as it now exists in terms of representing children in these matters, and at other statutory enactments related to child welfare proceedings.

Second, we looked at the philosophy governing child representation. I know Mrs. Campbell would agree this is a very important area. We examined, for example, the role of the lawyer, including his role as a mediator in these matters, which is very important. We considered guidelines for lawyers with regard to the issue of best interest and wishes. We talked about the problem in the context of the theoretical aspect, as against some of the practical implications of representing the child's wishes in contrast to what may be his best interest, which may not be the same thing.

We had good contributions from experts in the behavioural sciences. They indicated to the lawyers the importance of being aware and making use of representatives from other disciplines in relation to the behavioural sciences.

We talked about the implications of child abuse, emotional abuse and failure to thrive. We helped lawyers to understand some basic guidelines as to how to interview children. We talked about the importance and relevance of family dynamics, and the ages and stages of child development. All of which, I'm sure you will agree, are most important.

We talked about the administration of the program through the office of the official guardian in co-operation with other agencies, utilizing members of the private bar by the establishment of panels of lawyers in districts. This, of course, formed the basis of our training program—"training" with a question mark, because we were well aware you don't train a lawyer to act for a child in a three-day session.

Mrs. Campbell: You do not.

Mr. Perry: All we could do was establish some fundamental guidelines, open up some areas of interest and create some awareness and sensitivity with respect to this new responsibility.

We certainly spent a good deal of time with respect to the awareness of local resources. We had with us representatives from various agencies, including members of the bench with whom we have shared many of our concerns.

I may say that our courses attracted some 400 lawyers from all the municipalities and communities throughout the province. I suppose a little self-praise may be inopportune some time, but even today I received a letter from a lawyer indicating his interest in the program. He said the speakers explained the basic principles of the act extremely well, including the use of resource people, and establishing their useful roles. The material, he said, was well organized, all of which would certainly assist counsel representing children.

That was some of the comment in only one of some 40 letters we received from people who have attended the course. None was signed by me, nor did I influence any of them.

Mr. Warner: All signed by the Attorney General.

Mr. Perry: I was more interested in letters of criticism. I have looked at the letters received to find some criticisms. I find that the most helpful criticism was self-criticism in their own analyses of the program, which I hope will help us to do even better jobs in the future.

Mrs. Campbell: One of the things that bothers me about the whole question of representation is that I suppose you start with an umbrella, but we must ensure that the solicitor-client relationship as to confidentiality and the rest is maintained. However, when you leave that particular position one of the things that bothers me is that you are dealing with a group which is basically not a homogeneous group, in a sense. You are dealing with children of varying ages, varying experiences and varying perceptions. I would like to understand better how you perceive the representation proceeding.

It has to be, as I see it, somewhat fluid in relation to the client, depending upon age and experience and the rest of it.

One of the things I found early on, and this is not in any way intended as a criticism, I found to my surprise when I went into the court the great influence and the role of the children's aid society.

It seemed that in many cases they were not only perceived but also were almost the arbiters of the welfare of the child. I must confess that I wrestled with that and felt that that was an inappropriate kind of relationship between the judge and the children's aid society. I was rather firm in demanding from them the kinds of representation and the kinds of preparation that seemed to me should really take into consideration something of the child's own attitudes and so on, relating to his, or her particular problems. Again, that related very basically to the age of the child and what we were talking about.

Could I have some idea of the members of the bar; for instance, do we have any kind of uniformity as to an age group that is interested in this particular type of representation in these courses? What is the experience of the individuals attending these sessions? In other words, there seems to me to be something that has to be worked into the system of trying to review people with some kinds of real insights into children. I don't really know how you accomplish that. That would be your problem, not mine. This is a developing field in the law. It can grant opportunities in the law to young counsel, for example. I just want to have some idea of who is interested in these courses.

Mr. Perry: I think we are very surprised and gratified that the people who have applied for membership on these panels represent a wide age range, from older people with many years experience to more recent members of the bar. Indeed, the majority of the people who have applied have had more than three years' experience. This surprised me; I thought the majority of people would be just out of school and I was afraid just where they would look for work.

Mrs. Campbell: And nowhere to go.

Mr. Perry: And nowhere to go. In fact this hasn't proven to be so. For example, the last course in Toronto—and there are people here who were at that course—a good number of those people were people with some experience. This is good and bad, because this is an area in which in some instances I would like to have people without preconceived ideas and notions, fixed ideas about the role which may be, in my mind, too great an adversarial approach. I can say to you there is a broad spectrum of experience and variety of ages.

May I just make one observation in respect to a comment you made before. It is very important that independent representation doesn't do what you suggested some CAS workers may try to do—circumvent the role of a judge. I well know that no one circumvented your role when you were on the bench.

Mrs. Campbell: Hopefully no.

Mr. Perry: It's very important that the role of a lawyer be seen in the context of assisting the court to make a proper determination —this is in the best interest of the child— without interfering or unduly attempting to take over—not unduly, but attempting to take over the role of the judge. The judge is still the judge and—

Hon. Mr. McMurtry: I wonder if we could just stop on those bases. That's a very interesting observation, the judge is still the judge. I think we agreed that we would call an adjournment at 3:30.

Mrs. Campbell: Are we coming back?

Mr. Chairman: I understand the Attorney General has a press conference—something to do with announcing his leadership or something for some party.

Hon. Mr. McMurtry: The Liberal Party, you told me.

Mrs. Campbell: Oh, that's interesting.

Mr. Chairman: While he's doing that, we'll reconvene at four.

Hon. Mr. McMurtry: I have to make a call in relation to this waiver issue to the CP people in Montreal. We're going to take another run at it. I hope that it won't be very long. It may be a very short conversation, I don't know, but I hope to be back in 15 or 20 minutes.

Mrs. Campbell: That's wonderful.

The committee recessed a 3:30 p.m. and resumed at 4:05 p.m.

On resumption:

Mr. Chairman: I'll recognize a quorum once again. Does Mrs. Campbell wish to continue her questioning of Mr. Perry? Carry on, please.

Mrs. Campbell: Yes. Mr. Perry, you mentioned the various professions involved in these courses and one of the things that has bothered me is that I can find nowhere among social workers, psychologists, psychiatrists, or sociologists where they have reached a consensus as to whether or not children are capable of instructing counsel, understanding counsel's instructions and appreciating the nature and possible ramifications of their own instructions. Can you enlighten me as to whether such consensus has occurred during the course of these—whatever they're called?

Mr. Perry: No consensus has been reached, nor is any consensus likely to be reached because of the many variables, all of which you are well aware. All I can say is there is an awareness of the implications, the various problems you have just raised.

You raised a very serious problem earlier in the session, Mrs. Campbell, with respect to the relationship between the child and the lawyer. This is one we are putting our minds to. What is that relationship? Is it a true solicitor and client relationship? If it is, how can it be, the child not being sui juris, the child not having retained this person who is representing him? In any event, what is the effect of whatever that relationship is? What are the implications? How does that affect the role of the lawyer in relation to the child?

These are matters of ongoing concern and serious consideration by many professionals. There is no consensus of opinion among the variety of professionals whose expertise we have relied on in the formulation of our training programs. What I am trying to bring to bear is the benefit of the training and experience of these various disciplines in relation to this enlarged, independent representation program and to help lawyers see its implications or the need to utilize the expertise of a variety of professionals in the performance of their duties as lawyer for the child.

Mrs. Campbell: I guess this is where I am trying to come to grips with the whole ramifications of it because it seems to me that you start with a child who is indeed an infant in every sense of the word and not just in the legal sense. You go through to the child who, at least at the present time, is very close to being regarded as an adult. I don't know when a child becomes an adult basically but I know we have fixed an age of 18 for some purposes, of 16 for other purposes and of 21, I believe, for other purposes.

None of us really has any clear identification of any definition of when a child becomes an adult. I suppose there is a difficulty from your point of view in this program, as to the point at which a child is free to seek his or her own representation apart from any of the panel members.

Mr. Perry: That indeed is a real problem, of course, as you well know and is compounded by the fact you can't establish an age at which a child is responsible for, or capable of, undertaking or assuming any responsibility.

We use in our training program a well-known text, Beyond the Best Interests of the Child, which sets out in language even a lawyer can understand the wide variance and the developmental stages of children at various chronological ages. All of this is related to the extent to which a child can instruct counsel in a rational and reasonable manner.

The whole question we face—and it's a difficult one—when the child wants something that is obviously not in the child's best interest, which may in fact put a child in a position of danger, is what is the role of the lawyer within the context of that responsibility? These are matters for which, I put to you, there are no answers—firm, clear, unequivocal answers—to be found anywhere, but they are matters we are concerned about and aware of and for which we are moving towards finding satisfactory resolutions.

My emphasis is to look at each case on its merits, to the various degrees of development of a particular child, and then attempt to work out the legal destiny of a child within the context of the system in relation to the individual merits of, awareness of and competence of a particular child.

Mrs. Campbell: So in your opinion too this matter has to be held somewhat fluid, at least until you have gained some experience with it to—

Mr. Perry: Fluid or flexible.

Mrs. Campbell: All right, flexible.

Mr. Perry: It's an area in which flexibility is of the utmost importance, in my view.

Mrs. Campbell: Yes. It is amazing on occasion to find the perceptions of quite a small child as to his or her situation, whereas sometimes an older child really is confused. So it isn't a matter of chronological age that would determine that it is a matter of the

individual child. I would hope we don't get into any chronological age situation in this kind of representation.

Mr. Perry: These very appropriate observations may indicate clearly why it is very important that we rely on and utilize and co-operate with behavioural sciences. It is of the utmost importance in my view that we are aware of the significant contribution other disciplines can make to assist the lawyer to provide an adequate legal service for children.

Mrs. Campbell: Notwithstanding the panel, Justice for Children has asked that the child still have available to him or her a choice apart from the panel. I have spoken to one of the representatives but I have had some difficulty, based upon just those sorts of considerations in deciding at what point a child is capable of making that decision. I would have grave concerns, particularly if you do sometimes move into the criminal field, about the kinds of pressures that might be brought to bear on a child, to take a certain counsel rather than another counsel, or something. It would worry me that the child might not make a free choice and might make a choice detrimental to his or her own best interests.

It's a very complex matter and I appreciate what you are trying to do and I do want to thank you. When I first read your program I really wasn't very impressed at the idea that after a few hours or three days or something, you've got some knowledgeable people out there dealing with a very delicate situation.

Mr. Perry: You understand my position with respect to that aspect of it now.

Mrs. Campbell: Yes, I do. I guess the flexibility that you recognize is necessary and I guess I have to agree there is nothing precise in this area.

Mr. Warner: I have just a couple of questions and one of them really is the same question for both the Attorney General and Mr. Perry. Before that I would first like to express my appreciation of the fact that on relatively short notice Mr. Perry was able to come here this afternoon to answer our questions. For my part I hope this is not the end of the discussion on the rights of children and how we can adapt our system better to accommodate children.

[4:15]

One of my questions to the Attorney General is based on the conversation today. When would it be reasonable to expect that you would be giving us a further report beyond what the committee has done so far on the changes which you would anticipate that need to be made either in a sense of changing the laws or in the sense of changing the way in which we approach things with our lawyers, the training of lawyers, or so on? When would you expect to be formally reporting back to the assembly? I don't need a precise date but could you give it to me within terms of months?

Hon. Mr. McMurtry: You mean on the issue of independent legal representation of children?

Mr. Warner: Yes.

Hon. Mr. McMurtry: Certainly you might anticipate a report specifically directed to the juvenile system—I just can't tell you when that would be. I would hope there would be a further report sometime in the spring but beyond that I can't really speculate.

Mr. Warner: Okay. I realize it's a very sensitive area; it's one that has been looked at for some time and when you are going to make changes they have to be done carefully. But I would appreciate it if you could report back—if it's the spring, fine, it's the spring—and then we can have, I would hope, a further debate at that point within the Legislature as to the changes that you are proposing.

Hon. Mr. McMurtry: I appreciate your concern, Mr. Warner, and I think this discussion has been very helpful to date.

Mr. Dermot McCourt, who I believe is the deputy director of the Ontario legal aid plan, has been with us this afternoon. He is an employee of the Law Society of Upper Canada and is not with the ministry. We thought it would be helpful if he heard this discussion, because the legal aid plan, as we all know, is administered by the Law Society of Upper Canada. In relation to any initiatives which are taken with respect to representation in the criminal justice system they must be agreed to and implemented by the law society.

I think it's helpful if McCourt has heard the concerns of both the Liberal and the New Democratic parties in relation to the issue of enhancement of equality of child representation in the juvenile justice system. We have talked generally of some initiatives that have been taken. We certainly will be discussing with the law society the extent to which we can accelerate these initiatives in order to assure ourselves that we have a high quality of representation in this area, both in the duty counsel level and people acting on individual certificates.

It's helpful that Mr. McCourt is present during this discussion. The reason I say that is because I am hoping that, prior to any

further formal report of my committee on independent child representation, we might have other initiatives to announce in this area pending any formal report. I just want to make that clear.

Mrs. Campbell: Could I ask, apropos of this, is there any time frame at which this committee might meet to review any new Young Offenders Act, or something of that nature? I think that act, if it goes into effect the way it was, is going to have one philosophy and it's not going to be mine. But anyway we might at that time usefully discuss it. Would that be appropriate do you think, that this committee could be of assistance perhaps?

Hon. Mr. McMurtry: Yes, we haven't seen the new legislation yet. I have sort of lost track of the legislation—

Mrs. Campbell: So have I.

Hon. Mr. McMurtry: —since there was a statement at the last federal-provincial Attorneys General-ministers of justice meeting. They announced the intention to introduce this new legislation when we were there. I must confess, apart from the initial speculation, I have lost track of it. Has it been introduced, Mr. Campbell? I didn't think it had been, but—

Mrs. Campbell: I don't think so.

Mr. A. Campbell: No. The federal intention was to introduce it and proceed with it finally, after over 10 years, in the spring. The provinces have been asked to give some responses by the end of this year. The ministry is looking at it from that point of view. There are a few changes from the previous proposals but they are basically similar to the previous proposals and although it's not a bill, they are in a sort of legislative form, so you can get a fairly good idea of where they want to go. There are a few things that I think there will be a little bit of concern about.

One of the main questions for the province is not only the content of that legislation—in other words, what is going to replace the Juvenile Delinquents Act—but that fact that, no matter what that content of it is, the feds are only going to have it apply to Criminal Code matters.

Right now, a child who breaches a provincial or municipal law—liquor, traffic, anything like that—is now dealt with under the Juvenile Delinquents Act. When that federal legislation comes down to pike, every province will be faced with a choice as to how it wants to handle those cases of alleged provincial and municipal offences by children. And there is a range of alternatives that the province will have to consider at that point. At one extreme the province could simply enact, just pass, a statute saying for children who allegedly commit provincial and municipal offences, the provisions of the federal Young Offenders Act apply. That could be one extreme. The other extreme could be to do nothing, in which case the Provincial Offences Act would apply.

Between those two extremes there is a wide range of provincial action which could include, for instance, having the Provincial Offences Act apply but insert into the middle of it all the new dispositional powers under the federal act. So there is a range of things the provinces will be faced with, probably in the spring, and we are starting to take a preliminary look at that now.

Mrs. Campbell: How come provincial has all of this? Is it in a position where it can be discussed? The other one—

Mr. A. Campbell: I can provide you with—

Mrs. Campbell: —is discussed by everybody and his brother from one end of the province to another.

Mr. A. Campbell: A consultation industry developed, over the course of a few years, in dealing with the last one. We can provide you with everything we have about the new federal proposals, if you'd like to have it—and if anyone else in the committee would like it—we can provide you with what we have been given.

Hon. Mr. McMurtry: There is no problem with respect to that.

Mr. A. Campbell: No.

Mrs. Campbell: It seems to me that if the old philosophy prevails, the question of any other philosophy has gone out the window and then we are hoist by somebody else's petard, I guess.

Mr. A. Campbell: I think they have indicated, pretty clearly, it will be a Criminal Code-type statute with a number of wrinkles, but I think its philosophical bent is clear.

Mrs. Campbell: So it is the young adult offenders that are really—

Mr. A. Campbell: Pretty well, with a softened effect by a lot of dispositional powers, some funny things that happen at the front end of the system and some fetters on the discretion of law-enforcement people. In its structure and outline, with these additions it is a mini-code, yes.

Mrs. Campbell: So it's a matter of acquitting or convicting.

I am sorry. It just seemed to me that if we got that straightened out and if they are

going to treat them all as young adults then we don't have to worry about any philosophy of bringing anything to bear to assist a child.

Mr. Chairman: Do you wish to respond to that?

Mr. A. Campbell: Yes. I hope I didn't mislead you by suggesting that it was just a re-enactment of the Criminal Code. There are a lot of features to which they have given a lot of thought that tailor-make it for juveniles. Basically they have lots of provisions for juvenile services to be attached to the court and lots of review after disposition.

I don't want to mislead you by suggesting it is just a bare Criminal Code. They have a lot of features in there that are very specially designed for young people. But the approach is a criminal approach and not a child welfare approach.

Mrs. Campbell: Children between the ages of what?

Mr. A. Campbell: I think it is seven and 16. In other words, 16 would be adults.

Mrs. Campbell: Seven is still there?

Mr. A. Campbell: I think that is still in there. I may stand to be corrected though.

Mr. Warner: This document to which you are referring, would it be possible to have a copy of that?

Mr. A. Campbell: Yes, sir.

Mr. Warner: We would appreciate it.

Hon. Mr. McMurtry: We will get that to you right away and we would be very interested in your comments.

Mr. Warner: Mr. Perry, are you in receipt of a lengthy brief entitled Lawyers For Children, Where Are We Going?, in response to the second report of the Attorney General's Committee on the Representation of Children? It was submitted by Justice for Children, located here in Toronto.

Mr. Perry: Yes, I received it.

Mr. Warner: Could I have a copy of your response to that report?

Mr. Perry: It was directed, to my recollection, to the Attorney General and my office made no direct response, not in the English language. There was a response, I understand, to that.

Mr. Warner: Are you suggesting you made it in some other language?

Mr. Perry: Perhaps some of my responses could be credited—

Mr. Warner: No, there was no response. I see. My question then is properly directed to the Attorney General. Could I have a copy of your response to the document which was submitted to you?

Hon. Mr. McMurtry: The federal proposal?

Mr. Warner: No.

Hon. Mr. McMurtry: I'm sorry. Mrs. Campbell and I were just exchanging a word.

Mr. Warner: As long as is was a pleasantry.

Hon. Mr. McMurtry: Yes, it certainly was.

Mr. Warner: Okay.

Hon. Mr. McMurtry: We received—I'm sorry.

Mr. Warner: There was a lengthy brief called Lawyers For Children—Where Are We Going?, in response to the second report of the Attorney General's Committee on the Representation of Children and it was from a group called Justice for Children, located here in Toronto. My question was, could I have a copy of your response to the brief that was submitted?

Hon. Mr. McMurtry: Yes. The response is not yet completed. As soon as it is, we will be happy to provide you with a copy.

Mrs. Campbell: I should like it too.

Mr. Warner: Yes. My copy of the brief is dated January 1979. How soon do you think the response will be out?

Hon. Mr. McMurtry: We are under no obligation to respond at all. We received a large number of briefs, hundreds of briefs, from various organizations. We read their brief with interest. I indicated to my officials at some later point that a good deal of thought had obviously gone into the preparation of this brief. I indicated to them, some time after we received it, that I thought that quite apart from considering their concerns, it would be of interest to make a formal response. While not necessarily required, given the effort they had put into their brief, I thought we should make that sort of effort. That was some time later than the preparation of their brief.

It is not that the brief has not been considered and perused, but in view of their great interest in these matters, I thought that we would go to the trouble of preparing a very formal response and I wanted to do that properly. That has been under way for some time but that commenced, as I say, at some later date.

Mr. Warner: I raised it, should you want to add—I'm sorry.

Mr. A. Campbell: Some of my people were given a direction in March, "Prepare reply for my signature." We have prepared a couple of different draft replies, none of

which have yet been put before the Attorney General.

[4:30]

Most recently we thought the most appropriate thing to do was summarize everything that had been done by the official guardian's office in relation to getting these programs under way along the lines the official guardian has just described. We have some material from him. We have material from people in the department who did quite a lengthy analysis of the brief. We have been under the direction for some time to get out a formal reply.

Mr. Warner: I raise it, Mr. Chairman, because based on the conversation we have had here today, the dialogue, both in response to questions placed by my colleague from Riverdale (Mr. Renwick) and my colleague from St. George (Mrs. Campbell), and also with the added information provided by Mr. Campbell recently, on the federal proposal, there is quite a gulf between the perception, as drawn in this reasoned response from Justice for Children and the answers I have heard here today. At this point I am not able to make a firm decision on what is right or wrong, or what is valid and what isn't, but there is a gulf.

I am concerned that from the comments Mr. Campbell made—I don't want to misinterpret him in any way, but the remarks that you made respecting this federal proposal leave me very edgy after having read this material. We may be headed off in a totally wrong direction.

What I am saying is perhaps as we move on through time into the new year, it would help focus our discussion on this whole issue if there was a response in print to this.

Hon. Mr. McMurtry: To which submission are you referring, the federal proposal or—

Mr. Warner: To both really. I want to see the federal submission and your critique of it. I would also like to see your response to this document, Lawyers For Children, Where Are We Going? Based on that I can perhaps make a more valued assessment of those situations. But from the discussion this afternoon, the questions raised by my colleague from St. George and others, I am very uneasy about the direction in which I perceive we are headed on the representation of children.

Hon. Mr. McMurtry: I don't know what you mean by that. The federal government very recently made a proposal which we are just in the process of analysing.

Mr. Warner: Yes.

Hon. Mr. McMurtry: Whether we agree with the direction of the federal government or not, we will have lots of opportunity to make that known to them. I haven't seen the proposals myself. We will be developing our response to them in the weeks ahead. As far as Justice for Children is concerned, they are certainly entitled to their point of view. Their brief obviously represented a lot of work and we respect that. That is why I said a formal response to that would be appropriate.

As soon as that is prepared, we will certainly supply you with a copy of it, Mr. Warner, and we will keep you advised as to our progress with respect to responding to the federal proposals so far as young offenders legislation is concerned.

Mr. Warner: These are two separate items, I understand that. In the proposal, for example, 20 or 25 specific items are mentioned. Some of those seem to run counter to the answers I heard today.

Hon. Mr. McMurtry: There were obviously some areas of disagreement.

Mr. Warner: Yes. There are some very serious points put forward here about the function of the official guardian.

Hon. Mr. McMurtry: We are well aware that you are familiar with their brief. That is one of the reasons why we have been having the official guardian standing by since the commencement of these estimates so you would have the opportunity to discuss with him directly any of the concerns that may have been created in your mind as a result of this brief.

Mr. Warner: Just finally, Mr. Chairman, I would appreciate a discussion this afternoon. I think it is very important.

I have never viewed a child as a small adult. If we ever end up drafting laws along the line that perpetuates that kind of concept, in my view that is—

Hon. Mr. McMurtry: I don't even know what "small adult" means. That expression is totally meaningless to me. What everybody is concerned with, whether we agree or not with the direction we are going, is that the child is a separate human entity and not somebody's possession, which certainly was the law 100 years or less ago. I must admit I have great confusion in my own mind with the term young adult. I simply don't know what that means.

Mr. Warner: I suspect a lot of other people who have to adopt the laws don't know what it means either. We have gone through that area.

Hon. Mr. McMurtry: I don't know whether the federal proposal describes the child as a young adult. I haven't seen the proposal. If it does, I just don't know what it means. Maybe Mr. Campbell can enlighten us.

Mr. A. Campbell: I'll make sure you get copies of it. I hope I haven't misled anyone by suggesting it is just a mini Criminal Code.

There are two basic different routes that you can take with juvenile delinquency or young offender legislation. One route emphasizes rights and responsibilities and says even though children are different and have to have special services, they, like adults, have certain rights and certain responsibilities. They are entitled to representation, they are entitled to the same kind of a trial that an adult is entitled to before you can make a finding that they have committed a criminal act.

The other stream is sort of a paternalistic child welfare stream where the child is treated in a completely different manner than would be an adult against whom something was alleged.

To put those two extremes is to show the two sort of warring philosophical schools in juvenile delinquency matters. I don't suggest that these new federal proposals are just a mini Criminal Code, but they do have more of a focus on rights and responsibilities than the paternalistic approach to juvenile delinquency or children in trouble with the law that was the philosophical precursor of acts like the Juvenile Delinquents Act that we have today.

Mr. Warner: I understand that type of explanation, because I certainly encountered those two different philosophies when I was teaching. There were two schools of thought as to whether children were treated as young adults with rights and responsibilities and if they didn't live up to their responsibilities they were punished in the way in which you would punish adults—that kind of approach—or were treated with the more paternalistic approach you mention and sometimes something in between. But those certainly are two opposing schools of thought.

I must say the philosophy that you would treat children as young adults, meaning that they were to be taught rights and responsibilities and if they didn't live up to them there would be appropriate punishment, never appealed to me as a way to help children grow into what we call full adulthood, as responsible citizens. I never saw that as a way. I felt that any experience I had with children who came into conflict with the law, when they were treated in that way it was not helpful. That is just from my experience. It is probably more limited than Mr. Perry's or maybe even the Attorney General's.

It was always my experience that it wasn't helpful to treat children that way, especially when they came into conflict with the law.

Hon. Mr. McMurtry: The reason why I say I have so much difficulty with what is meant by young adults—of course I know what is meant by young adult in ordinary conversation as opposed to a legal term—is, as I say, I don't understand it. We have a rather arbitrary point that states at a certain age a child becomes an adult in law for certain purposes. At 18, they are adults in law in so far as entering into legal relationships, contracts et cetera, the so called age of responsibility is concerned. At 16 they are adults in so far as the criminal justice system is concerned.

All of these arbitrary levels, chronological age levels, concern us all because they are so very arbitrary. You may run into a 14-year-old who is more worldly wise than a 24-year-old. When some 14-year-olds are charged with a serious offence it's perhaps fairer to them to try them in the adult justice system, and perhaps some 18 years olds we try in the adult justice system should be tried in the juvenile system. No question about it, there is a very arbitrary nature about these ages.

There is some disagreement among the provinces as to at what age a person should be regarded as a juvenile as opposed to an adult. All I'm saying, Mr. Warner, is that you, as a non-lawyer who is coming very quickly to grips with a lot of legal issues, should not in any way be surprised by the contradictions in the whole process, because anomalies exist.

Mr. Warner: I expect every time I raise an issue there will be contradictions. I look forward to the documents you are going to send over and I will be scrutinizing them carefully. I can just tell the chairman that I have a very deep concern about how we assist young people who find themselves in the judicial system, however they entered it, and that we find a creative and imaginative way to help those young people.

I guess if I could be permitted one more question I would ask Mr. Perry. Have you, through your proceedings, either in welfare situations or others, been able to assist native children during the last year or so? If so, do you have a special way of approaching the problems of native children?

Mr. Perry: We try to keep an ongoing vigilance with respect to the specific rights of native children. In the first instance, we treat native childen as we do any other children in the province, provide them with the same processes and the same protections. We keep looking for those cases in which, because a child is a native child, he requires a special kind of protection. Special circumstances warrant special considerations.

That hasn't happened until we now look at the independent representation in section 20 and we look at the protection problems of the child in the far northern parts of the province where there are limited opportunities or facilities for independent representations, the lack of lawyers et cetera, the lack of other facilities which we take for granted in other parts of the province. We are going to send a member of our independent representation team to the north to examine and assess the special needs peculiar to the people in the north.

In my experience, since 1950 there hasn't been a large number of situations that required special considerations. We almost came to grips with such considerations with respect to certain types of poisoning as it affected northern children and actually in the long run we found that even there we couldn't find reasons to make any special provisions.

[4:45]

Mr. Warner: I understand the Attorney General has a native court-worker program in different parts of the province. I wondered if there was some kind of parallel operation to the official guardian's office, in that where native children were involved you had trained workers, native people or others, who would be working with those children.

Mr. Perry: As I indicated, in terms of protection cases, where there is a variety of problems, particularly with respect to areas of incest, child abuse, we are now making a special study of any particular needs peculiar to children in the north.

Mr. Warner: Okay. I have no further questions at this time.

Mrs. Campbell: Could I ask what your role is with reference to native people where the mother herself is not of the age of majority, and where a children's aid society seems to take a very—I don't know what kind of attitude to the mother. Where would you become involved when a society seems to be determined—and we had a case in the Legislature of a society moving in and determining it was going to take a child, causing the mother to cease to nurse the baby and all sorts of awful ramifications. Where would you intervene in a case like that? Do you intervene on behalf of both, or one, or what?

Mr. Perry: If a child is under 16 years of age, be it a married child or other, it is still the responsibility of the children's aid society to determine whether the child is in need of protection.

Mrs. Campbell: What about the cases where the children's aid society seems to go out of its way to make it difficult for the mother in that case? Does she have any recourse to you?

Mr. Perry: Yes, the mother would have as much recourse as anyone else. I don't think there is a case for comparison here, but if the mother, who was a minor, has a right, for example, in a private adoption, there is a statutory mandate on the official guardian to protect her right on the basis that the children's aid society has a responsibility to protect the child. That's the whole basis of the child welfare system in terms of the mother and child, because if the mother is not protecting her child and the child is in need of protection or appears to be in need of protection. the children's aid society should step in. If the children's aid society fails to do so and it comes to my attention—

Mrs. Campbell: According to Mr. Martel they over-reacted. I think that is the right terminology.

Mr. Perry: That is one of the reasons for section 20, just to provide a system whereby the child can be protected against the well intentioned or otherwise children's aid society. That's a very fundamental reason for section 20, to provide independent representation for that child as against the responsibility of the children's aid society.

Mrs. Campbell: Have you ever had any questions raised with reference to adoptions? As I mentioned once before, the matter was raised when I was in the north and there was no follow through although I invited further information, but it concerned me because I don't know how widespread it might be. That is the question of whether or not someone has the right to deny adoption or to oppose adoption by native parents who are married in accordance with the rites of their religion as opposed to the rites of the established religions of our province. Have you had any cases of that sort come to your attention?

Mr. Perry: Where there has been a difference in religion?

Mrs. Campbell: No, where the native people were married in accordance with the

rites of their ancient religion, which I don't think is under question by anybody at this point.

Mr. Perry: I can't think of any specific cases but surely the best-interest-of-the-child principle would be applied in that adoption as in any other adoption.

Mrs. Campbell: So that now we could bring all of this and stick it on your desk.

Mr. Perry: In those areas where there have been problems, we've had to deal with them in the past.

Mrs. Campbell: Thank you.

Mr. Chairman: Thank you. I'd like to thank Mr. Perry for what has proven to me, at least, as a non-lawyer, to be a very interesting discussion and debate this afternoon. No doubt there will be a number of items put on your desk as a result of this, so you have generated more business for yourself.

Mrs. Campbell: He didn't need to.

Mr. Chairman: I found it interesting that we were arguing on a legal basis many of the same issues I've had argued on a psychological basis in teacher training I've done and in some other fields. I think it's been a very worthwhile afternoon and morning and we thank you very much.

Mrs. Campbell: We didn't even check to see how much your particular administration had grown financially since the last estimates, with all your new duties.

Item 1 carried.

On item 2, public trustee:

Mr. Warner: Just as a matter of procedure —I do have a question regarding the public trustee—did you wish to continue with vote 1403 now, without having concluded 1401?

Mr. Chairman: I was trying to find out whether there were questions on items 2 and 3 and if there were not, since Mr. Dermot McCourt, deputy director of the Ontario Legal Aid Plan is here, I thought we should make use of his talents and views while we have an opportunity to question him. If you do have an extensive number of questions on items 2 and 3, then we'll have to simply stand them down.

Mr. Warner: Not extensive, I need—

Mr. Chairman: You have one question, or two questions or—

Mr. Warner: —five or 10 minutes to deal with the public trustee and I do not have anything on the third item.

Mr. Chairman: Can we deal then with the public trustee and then move on to Mr. McCourt?

Mr. Warner: Okay.

Hon. Mr. McMurtry: I wanted to say if there were any questions in respect to the public trustee's office, that I couldn't answer I hope someone here would be able to.

Mr. Warner: That's fine. I'd like to try and clear up what seems to be a very puzzling matter to me, it's regarding the estate of Mr. Irving Rebroff. It starts back on July 5, 1977, and as of your letter dated June 22, 1979, there still is no resolve to the case. I got a letter from the solicitor, who is just totally frustrated. He can't understand why this matter hasn't been finalized. He says it reflects clearly on this government. It's always nice when other people say it, you know, and I haven't.

I read the correspondence over and I am really puzzled as to why there wouldn't be a resolution to a case which goes back two and a half years. In your response you outlined some of the problems. The public trustee wrote to the income tax department on May 9, concerning a clearance, and is still waiting for a reply from that department. That's mind-boggling, it really is.

Could we at least have, if it's not resolved, some up-to-date information and a reason why it has not be resolved?

Hon. Mr. McMurtry: Yes. I don't recall the matter now, but we will get this information for you and see if we can't find something up-to-date. My last letter was June 22.

Mr. Warner: June 22, 1979. I gave you the name. Do you require any other information?

Hon. Mr. McMurtry: Could we borrow the letters for a moment?

Mr. Warner: Certainly, as long as they don't go through the shredder.

Mrs. Campbell: Get a receipt for them.

Mr. Warner: I am looking around for a shredder in the room.

Mrs. Campbell: Oh, I wasn't suggesting that.

Hon. Mr. McMurtry: Mr. Chester will get the necessary information for you.

Mr. Warner: Okay. That's great. That was the only item I wanted to raise under this item. I was puzzled by it. I understand things bog down once in a while, in different departments, not necessarily yours, but in other functions—federal government and so on—but two and a half years does seem a bit long for a response. It may be a little complicated but from my reading of it it's not all that much. If there is some reason I am not aware of why the case should not be

resolved, then I would appreciate it if you would let me know.

Hon. Mr. McMurtry: Yes. We'll try to have some information by tomorrow.

Mrs. Campbell: It's the God-like quality of government. It grinds slow.

Items 2 and 3 agreed to.

Vote 1403 agreed to.

Mr. Chairman: We will now, since we have Mr. McCourt present, go back to vote 1402. You will recall we had stood down vote 1401 for a question from Mr. Renwick following that.

Mr. Warner: I am sorry; I missed that. You said vote 1401?

Mr. Chairman: It has been stood down because Mr. Renwick had one question on it. We want to deal with vote 1402 now, because we have Mr. McCourt present. We'll deal with vote 1402, and vote 1401 remains stood down. Turn to page J14, and we are okay.

Mr. Renwick: Where does Mr. McCourt come in now?

Mr. Warner: I don't understand how—

Mrs. Campbell: Mr. McCourt came in on the discussion basically on the official guardian and legal aid.

Hon. Mr. McMurtry: I think he just happened to be beside me here. Since he was here and since a lot of what we talked about in relation to child representation touched on legal aid, we thought we might deal with it now.

Mrs. Campbell: That's right.

Mr. Chairman: It comes under vote 1402, item 1.

Mr. Warner: Okay, I understand it.

Mr. Chairman: And that's why I am dealing with vote 1402, item 1.

Mr. Warner: My apologies.

Mrs. Campbell: I thought we had passed vote 1402, item 1. That's where I got confused.

Mr. Chairman: That was stood down as well.

Mrs. Campbell: Okay, thank you. It's an imaginative approach to the estimates.

On vote 1402, administrative services program; item 1, main office:

Mr. Chairman: On legal aid, does the Attorney General wish to make any comments?

Hon. Mr. McMurtry: No, not at this time. I spoke at some length on legal aid during my opening comments, and I don't have anything to add at this time.

Mr. Chairman: Mrs. Campbell.

Mr. Renwick: How Mr. McCourt got under 1402 still puzzles me.

Mrs. Campbell: It was the discussion you initiated about legal aid carrying through the functions under the Juvenile Delinquents Act vis-à-vis the official guardian, and Mr. McMurtry pointed out that if Mr. McCourt was here, it might clarify some of the issues, as I understand it.

[5:00]

Mr. Chairman: I think you'll find, Mr. Renwick, under vote 1402, item 1, there is a contribution of $29 million to legal aid fund grants, Canadian Law Information Council. That's why I thought we could deal with it under that vote.

Mr. Renwick: Vote 1402, main office?

Mr. Chairman: Yes.

Mr. Warner: Yes, there's a transfer payment under the main office.

Mrs. Campbell: Are we going into the whole legal aid aspect right now?

Mr. Chairman: I think we'll deal with Mr. McCourt and then we can make a decision on that, okay?

Mrs. Campbell: First of all, I'd like some response from Mr. McCourt, if he is in a position to give us a response, as a result of the ongoing discussion that we had with the official guardian and the opposing views—

Hon. Mr. McMurtry: In fairness to Mr. McCourt, this is really not within his domain in so far as policy is concerned. He carries out the policies given to him by the legal aid committee of the benchers. Perhaps I confused the issue, Mr. Chairman, by relating his presence here to the official guardian's operation. It was just that I thought Mr. McCourt might be helpful to the committee when it came to details of the administration of the plan, and since legal aid was somewhat on our minds I felt if you chose to hear Mr. McCourt in relation to details of the administration there might be an appropriate time.

Mrs. Campbell: I have one question that I have asked perennially and I haven't had an answer yet. Perhaps Mr. McCourt can assist me. What is the policy of legal aid with reference to a person who is at this point, and may not be in the future, one of those contributors to the fund as opposed to insurance policy? When that person seeks legal aid for any criminal matters that may result from a tort or a civil liability, what is your advice to such persons? Are they entitled to legal aid generally? Is there any

exception? What is their position with reference to legal aid?

Mr. McCourt: Do you restrict this with respect to their financial eligibility for these claims, Mrs. Campbell?

Mrs. Campbell: No. In fairness I should put a specific case. It's the case of the person in this predicament, who, according to the information I had, applied to the legal aid, was advised that legal aid was not forthcoming in view of the fact that the fund had a lawyer and therefore there would be a duplication of legal representation. This appears definitely to have been the case, in this one case in point. Is that a general practice? Their positions are not the same, surely?

Mr. McCourt: I believe there is a provision, if not in the statutes certainly in the regulations to the Legal Aid Act, that states where the legal services required are available under some other program or are otherwise available to an applicant, then legal aid will not provide services.

Mrs. Campbell: I am aware of that. Are you suggesting, however, that such legal services are available in those circumstances?

Mr. McCourt: I suppose they could be in individual circumstances, yes, but I am not aware of the particular case to which you refer.

Mr. A. Campbell: I think, Mrs. Campbell, this was looked into by Mr. Donkin of the legal aid plan some time within the last year—

Mrs. Campbell: My goodness, I got through finally.

Mr. A. Campbell: —particularly in relation to those cases where there might be a conflict between the interest of the fund and the interest of the uninsured defendants, partly because of the subrogation from the fund against him or perhaps for some other reason. My impression was—and I'll check it with Mr. Donkin—there is a possibility in those situations where there is an obvious need for some independent legal advice that provisions can be made for that, and on some occasions are made for that, by the plan. We can check that with Mr. Donkin and get back to you.

Mrs. Campbell: I gave you the name of the case—I guess it was somebody else—at these estimates about two years ago or so, and it has bothered me. The Attorney General didn't understand my concerns. You wind up with a person who really doesn't have a clue; he never had his day in court. The settlement was obviously made without his consultation and he never had any chance. I don't think that is a duplication. His interests are quite different from the interests of the fund—in establishing his own innocence, for example.

Hon. Mr. McMurtry: I may have missed something here, but as I recall, the fund was often brought into the issue simply because the uninsured defendant chose to ignore the process that was served upon him.

Mrs. Campbell: Yes.

Hon. Mr. McMurtry: That's what happens in a great majority of cases, this is how the fund gets notice and so they are not interested in it.

Mrs. Campbell: I think that could happen under these regulations. If they apply to legal aid and don't get it and think they have a lawyer who is going to be acting on their behalf, they may well ignore the processes because they think it is all taken care of. That's what I have been trying to get through.

Mr. A. Campbell: I know this matter has been looked into by the plan and by Mr. Donkin specifically. I don't recall the name of any particular litigant.

Mrs. Campbell: I shall get it for you one more time. Maybe I didn't give it, because normally I don't in committee.

Mr. A. Campbell: I don't recall it being given to me.

Mrs. Campbell: All right, I shall get it for you, because it's a case that still continues to disturb me.

Hon. Mr. McMurtry: We have discussed this before and it's my recollection that where an individual indicated any interest in the defence of the action through the legal aid plan or otherwise, the practice of lawyers representing the plan was to keep that person informed, if possible. Some of these people, of course, would drop out of the picture fairly quickly and demonstrate no interest. But where there was any communication, where uninsured defendants showed any interest in the matter, it was generally a practice to attempt to explain to them what the process was.

I don't doubt that occasionally, for one reason or another, this did not occur, but I don't think the legal aid plan could be faulted. We are talking about the money that was paid out by taxpayers, and we'll get the details of this, because some of them are a little fuzzy in my memory. But, again, one of the great problems that confronted the motor vehicle accident claims fund in paying out taxpayers' dollars, which in the majority

of cases were not recovered, was their desire to afford proper representation.

The fund was actually interested in retaining solicitors who were experienced in this particular area, because the experience of the fund was that the fund would be better served that way, in so far as the settlements that were arrived at, in lower settlements or better results in court. In serving the interests of the fund, the individual, the uninsured, would also be better served because the assignment of the judgement would likely be in a lower amount than if that person chose a lawyer who had no particular experience in this field.

I recall this was an issue that concerned the law society for a long time inasmuch as it dealt with this basic principle of freedom of choice of lawyers. Again, this freedom of choice is often an illusory right, if you don't know which lawyers are qualified to handle this case and which are not. This has been fundamental to our ongoing discussions with respect to defences in criminal cases and, of course, when it involves child representation it is particularly crucial.

So what concerned the fund on the one hand and the legal aid system as administered independently of the government by the law society, was trying to arrive at a result that protected both the taxpayer and the individual litigant who in a great majority of cases was represented by experienced counsel in the motor vehicle accident field for no charge.

To duplicate that service or to duplicate the costs or to charge—this is my personal perspective—the legal aid fund with that cost, where in many cases you weren't going to get as experienced a lawyer in that field, just adds an additional expense to the legal aid fund, whereas the motor vehicle accident fund would pick up the cost of this defence.

Obviously, in the best of all possible worlds, there is going to be the occasional case where the person feels he should have been advised of the settlement and was not.

Mrs. Campbell. That really isn't the case. The case is where somebody applies to legal aid, legal aid points out it has fund lawyers and they can resort to the fund lawyers. The difficulty is I don't think anybody tells them. In this particular case it may have been a difficulty with language. In any event, this person assumed the fund would be protecting him and he wasn't protected at any stage. He was certainly not trying to drop it. He is convinced to this day that he was innocent, but he was found guilty and cannot drive until he pays—I have forgotten the amount—$5,000 or something, which is going to take him from here to eternity to pay off. There is no one along the line addressing themselves to his particular problem.

The fund lawyer took the position that he was settling a matter which had had some disposition but the person never got, in his opinion, his day in court with any kind of help. That is what I am trying to get through. There seems to be a slip between the cup and the lip sometimes where people are denied legal aid but they don't get picked up in any part of the system. That was the point I was making. I wasn't faulting the fund lawyer.

If legal aid has somebody go to it who cannot get legal aid there should be a further explanation as to what they should do and whom they should apply to in the next round. Nothing happened, and he just took it that the fund lawyer was looking after him and there he was.

Mr. McCourt: From appearances, Mrs. Campbell, that particular applicant may have fallen between two services, as it were.

Mrs. Campbell: How many others might do the same thing?

Mr. McCourt: It is the practice of the legal aid plan and it is our policy that if we cannot for one reason or another help an applicant we seek to refer him or her to the appropriate agency. Inevitably, I suppose, from time to time somebody will fall between or get lost on the way. We try to avoid that to the best of our ability.

[5:15]

Mrs. Campbell: What language skills do you have in the office?

Mr. McCourt: In the Toronto office, apart from English, of course, there is French, Italian and Portuguese, I believe. Also, the area director in the Toronto office can call on interpreters who speak other languages.

Mrs. Campbell: It seems to me this is a case where natural justice was denied somewhere along the line by some flukey thing perhaps. I have never had an explanation of it and I'll get the case dug out again.

Mr. McCourt: I have made a note of it, Mrs. Campbell, and I will get back to you.

Mr. Warner: I'd like to discuss, in some general terms, the principles of the legal aid system. We may not finish this item by six o'clock. I would like to get, through our discussion, some idea of what kind of goal you have in mind where the system is headed , and what kinds of innovations you think should be put into place.

I'd like to begin by trying to clear away what, for me, has been a bit of a mystery for a while and that is, whether you are in

favour of a public defender system? There has been discussion over the last year or two about the public defender system. I understand you stated you wanted to bring it in in Metropolitan Toronto. I believe that was in 1978.

First I would like to know your thoughts on the public defender system. Are you interested in bringing it into Ontario, either for the province or as an experiment in one part of the province, such as Metropolitan Toronto, and if so, why, and if not, why not?

Hon. Mr. McMurtry: Okay, fair enough. If I may indulge in a little bit of the history of this controversy—

Mr. Warner: Please. The chairman is an historian. He told us.

Hon. Mr. McMurtry: I think it is fair to describe it as a controversy. This broke last winter, but again, so much happens from month to month for all of us it is sometimes hard to keep these dates straight.

I happened to have lunch with some representatives of the Advocates' Society, including the then president, Mr. Wendell Wigle—

Mr. Renwick: This society keeps cropping up.

Hon. Mr. McMurtry: It keeps cropping up, yes.

Mr. Warner: This was in the country?

Mrs. Campbell: No, it was in Israel, as a matter of fact.

Hon. Mr. McMurtry: —to discuss some of the issues facing the administration of justice. This is some months ago—it may be two years ago; I cannot even recall, but if the date is important I can easily check it. At that luncheon was one of the most senior members of the criminal bar in this community.

He expressed very deep concerns about some aspects of the legal aid system inasmuch as, in his view, there were a number of people who were representing persons on legal aid certificates who had very little experience and very little commitment to the criminal justice system so far as making a career or a serious commitment to that type of work. He expressed great concern about the diffusion of counsel who were appearing occasionally in these courts on serious cases, counsel he felt were inadequate, considering the importance of the responsibility and the gravity of the offence.

As a result of some of the statements made at that time, the president of the Advocates' Society was very concerned about this. As you know, it is an organization, whose membership is made up of individuals who specialize in counsel work in civil courts, criminal courts and before administrative boards and tribunals. He felt this matter should be explored further. There was some discussion, all the details of which I forget, about what might be done to improve this situation, as well as, of course, to try to make some measurement of the dimension of the problem.

This criminal counsel was asked at that luncheon if we had to take a look at the public defender system. The public defender system was considered and rejected by the law society and others when this present legal aid plan came into force 11 or 12 years ago. Of course, there have been many models of it since then. He agreed it probably would be something we would have to look at.

In any event, unfortunately—and perhaps it wasn't unfortunate, I don't know at this date, because I think a lot has been accomplished since—this meeting was followed by a major article in a local Toronto newspaper which started to talk about the public defender system and the fact the government was interested in it as a possible alternative. It created enormous interest in the profession. We indicated we were looking at it as a possible adjunct to the legal aid system in Metropolitan Toronto, not to replace current utilization of the private bar but as a further alternative.

The concern I expressed at that time was, how does an individual accused know to whom he should go? Mr. Renwick used an analogous situation. It is fortunate if some child or juvenile ends up in Al Stong's office, but how do they know to get there? It's that sort of idea. That same concern was expressed by me in the context of the criminal justice system. How does an accused, who doesn't have the right contacts, know which of those 1,500 or 2,500 lawyers—I forget how many—on the legal aid panel are qualified to take on this type of defence? The law society participated or was involved in this whole process from a very early stage. I won't bore you with the whole history, mainly because I don't recall all of it at the moment, but it was a fairly lengthy one.

The upshot of it was that the law society recognized the need to encourage some degree of specialization in this area, particularly in Metropolitan Toronto, where there is such a large number of lawyers who held themselves out as being able to practise criminal law. In the communities outside Toronto there wasn't really the same problem because, from what we have been able to discover, most individuals seemed to

know the lawyers in town who could take on this type of case.

As a result of considerable discussion between the law society, ourselves, the Criminal Lawyers' Association and others, the law society developed a new system in relation to Metropolitan Toronto and to some extent throughout the province, which basically was geared to having a list of lawyers on the legal aid panel, who had made some personal commitment to criminal law and as counsel in the criminal justice system. In a few moments I will have Mr. Campbell give you some of the details of that.

I want to get to the issue: are we considering a public defender system now, and, if not, why not. It was only in the context of Metropolitan Toronto that I thought, rightly or wrongly, we should take a look at it. There is a modified system which I don't like to describe as a public defender system, because it summons up all sorts of issues that are really not relevant in the minds of many lawyers, but we have set up an office where there are full-time duty counsel specializing in criminal work, mainly dealing with bail application, adjournments and pleas of guilty in the more minor offences. They take on a certain number of limited trials in less serious cases, I understand.

In that sense, in Metropolitan Toronto, the law society was developing a more highly specialized group of lawyers, mostly young lawyers acting under the direction of a more senior lawyer who would know how to handle these very important appearances, particularly if there were bail applications and what not and some if the pleas are guilty.

That seems to have worked out reasonably well. The fact that the law society in the legal aid system has committed itself to a degree of specialization answers, at least at this time, a large portion of my concerns in relation to specialization and access of individual citizens to qualified counsel, which is the basic issue as I see it.

While the issue is by no means dead, it is probably on the back burner at the moment. We don't have any specific plans, because we believe the private practising bar, in my view, should play a major role in the criminal justice system so far as affording counsel in the majority of criminal cases. We think, generally speaking, the criminal bar or the practising profession enjoys not only an independence from the government, but also the perception of an independence, which is often just as important.

My intention at the present time is to encourage the law society to continue to take the initiatives it has taken. I must state, for the record, that I am quite pleased with what I view to be their response on a very complex issue. I think their accreditation system or point system in Metropolitan Toronto, which is geared to attract more senior counsel, does answer many of my concerns in this area. We would like to see how this new system works before suggesting any other significant change.

The bottom line is a legal aid plan which has served the citizens of this province very well over the years. Sure, there are problems, but considering the number of people who have been served by the plan I think it has been an enormously important innovation in the administration of justice in this province. I regret it doesn't receive more widespread public support in the criminal field.

[5:30]

I say that because, and we have all sensed this or been made aware of this from time to time as members of the Legislature, the public has a rather bloody-minded attitude when it comes to the person who is alleged to have committed a criminal offence. Many of our citizens around this province greatly resent public funds being spent to represent people they believe to be bad people. Whether that is so or not, of course, the presumption of innocence must prevail. While I regard it as a very important principle that the individual accused have reasonable access to qualified counsel, I would like to see that occur wherever possible through the private bar, because generally speaking the best representation is going to be found within the ranks of the individual practitioners.

At this point, just to recapitulate what I have said, I think I have already indicated how this whole issue of public defender became an issue; secondly, that I am satisfied with the law society's response to date; and while it is too early to make a judgement as to how these new regulations and new procedures are working, we are fairly optimistic about it.

Mr. Campbell has again been a vital part of the process and negotiations that went on with the law society. Perhaps he would like to add to what I have said in relation to Mr. Warner's question.

Mr. A. Campbell: Perhaps I could very briefly outline four basic initiatives that are designed to improve, first, the quality and, second, the efficiency and cost effectiveness of the plan.

The first one is the development of a research bank where the first aspect of the service will be a service of recent unreported

cases, when a lawyer goes into court on behalf of a legal aid client he or she has the most up-to-date information available. This will also involve the storage of opinions and the development of some research, so you don't have five or six lawyers doing exactly the same kind of research again and again. They can then put aside the best memoranda in preparation for a particular case, prepare other research material, and have that available on a telephone basis. So you avoid duplication and you improve the quality of delivery because they have this resource pool of the most recent research available to them.

The second aspect is a couple of pilot projects in Metro which have not yet been fully settled upon. I think we are awaiting a final report from some consultants in Chicago, who have been very active in legal aid reforms in the United States, in order to have two extra resources in Toronto. One is investigators, particularly for serious cases, so the legal aid lawyer will have some of the resources that are available to the crown, for that matter, in tracking down witnesses, particularly in a serious case, checking out an alibi, or something of that nature.

The other aspect of that second point would be to have some people available—I don't know if they would be called social workers—who could do some work in developing non-custodial alternatives. In other words, when you are speaking to sentences as a defence counsel, if you can develop for the judge a package of a community service order or some voluntary treatment program, some sort of community work, you have a much better chance of keeping your client out of jail.

The idea would be to have a number of people who were skilled in this area, whether or not they necessarily held a master's degree in social work I don't know, but people who have the skills to develop the kinds of packages that a court might prefer over sending somebody to jail. They might also be able to do some sort of social investigative work with respect to bail applications and find some way to keep somebody out of jail. If these pilots do come about, and we are looking at a number of structural issues, particularly when we get the report from Chicago, that wold be another resource available to the defence.

The third major item, in Metropolitan Toronto, is the criminal point system. Before the system came in there were approximately 1,600 people on the criminal panel in Metropolitan Toronto. It was a requirement, to stay on the panel, that people fill out a questionnaire and accumulate at least 10 points on the system. You can get points two ways: by practical experience at the bar; by taking refresher courses and participating in continuing legal education in criminal law.

To get on the criminal panel you have to have at least 10 points. A recent graduate could get on the panel, could get 10 points right off the bat, by joining a law society program whereby they promise to take a certain number of continuing legal education credits over the next year or two, something of that nature. If you accumulated over 100 points your name would be put on a special panel that wold be made available to people charged with serious criminal offences, to ensure that someone charged with a serious criminal offence can make a choice between more experienced lawyers and less experienced lawyers. If you don't know a lawyer presumably you would choose a more experienced over a less experienced lawyer.

The points, as I indicated, are accumulated through a combination of experience and continuing legal education.

The fourth area, which is in its infancy now, is sort of a junioring system, sometimes we call it a buddy system. The idea there is that senior members of the bar would almost act—not quite as den mothers but would provide some guidance and leadership to younger members of the bar acting on legal aid certificates who ran into practical problems in individual cases. The basic point there is that sometimes five or 10 minutes of advice from a very experienced lawyer can save somebody who is new at the bar a lot of grief, actually can save the day in a particular case and can be of a great deal of assistance.

Those are the four basic innovations that have been developed to date.

There is also, as the Attorney General indicated, a salaried duty counsel project in York. There is, I think some hope that some of those salaried duty counsel, if they are not in court every minute, might help out with the research bank, but I am not sure how fully that has been developed.

Mr. Warner: I appreciate that description; if time permits we might be able to get back to a discussion of the point system.

The Attorney General dealt with two basic principles in criticism of the public defender system, the idea of the perception of independence and the notion of having selection. He said they were very important and he was confident those criteria were being met now in Toronto and elsewhere. Why, then, leave the issue of the public defender on the back burner, why not turn the burner off?

Hon. Mr. McMurtry: Perhaps the back burner was not a very good analogy, and I will accept responsibility for that. I certainly don't want to create the wrong impression. These issues never go away entirely, I guess this is what I was trying to say; they retreat into the background. Certain innovations are made in a system because we think they will meet the problem; we do that rather than throw out the baby with the bath water as some people allege we would be doing. I don't see it in quite those terms; I think we should remain alert to developments in other jurisdictions, for example, that are related to this concept and that might be helpful. If you prefer me to say we have turned off the burner at the present time, okay, but there is nothing to say it won't be turned back on again.

Mrs. Campbell: It's a matter of degree.

Hon. Mr. McMurtry: Exactly, it's a matter of degree.

The legal aid system has had a lot of unfair criticism over the years. I want to make this point, particularly as I am sensitive to the role of the legal profession of which I am proud to be a member in modern society. It seems to me that politicians and lawyers are always competing with each other in public polls to find out who's the least popular.

Mrs. Campbell: And both are a bunch of crooks in the eyes of the public.

Hon. Mr. McMurtry: Be that as it may, I am mindful of the fact that many lawyers in this province, hundreds of lawyers—perhaps I'll even say thousands of lawyers over the years—have given enormous amounts of their time to make this system work. If any government were to go out and attempt to hire that expertise it would be enormously expensive to the taxpayer, and I don't think it would in any way duplicate what we've been able to provide from within the ranks of the private bar so far as commitment to this system is concerned. That is why I am personally dedicated to maintaining the support of the profession throughout the province for the legal aid system.

Obviously, the legal aid system doesn't enjoy total support within the profession, but among those who are aware of the criminal justice system and the importance of the legal aid system to the rights of the individual, the legal aid system is supported. Even the perception that the government is going to take over the administration of a plan that has been well administered by the law society over the years is a perception that I don't want to create, because I think it would be counter-productive and destructive to the effectiveness of the operation of the plan.

Mr. Warner: I appreciate your comments on the public defender notion, because while it may have been clear to other members it wasn't clear to me whether or not, or how actively, you were pursuing the notion of a public defender system in Metro Toronto or elsewhere; was it simmering somewhere I suppose is what I meant.

I was to leave at 5:30, Mr. Chairman, but I want to come back at our next opportunity to deal with the legal aid plan and the minister's notion on how to extend the plan. I have been a very strong supporter of the legal aid plan in this province. Of course even with all the good ideas there are, there are reasonable and responsible criticisms, I think, that can be levied; but I don't want to see it weakened, I want to see it strengthened.

I would like to put forward to you, as we are having this discussion, some suggestions I would like to have considered very seriously. I think you are right when you make the comment about the perception of the general public. It seems to me there is an automatic assumption, at least in this province and maybe throughout much of Canada, that if you have been accused of a crime you must be guilty otherwise no one would have accused you. That poses great difficulties for me, because I have always believed in the other aspect, that you are innocent until someone proves you to be otherwise.

Mr. Chairman: That's the rationale on wiretapping; you are obviously doing something sneaky or the RCMP wouldn't want to tap your wires.

[5:45]

Mr. Warner: When you are dealing with a pervasive attitude of that nature, that you must be guilty otherwise you wouldn't be charged, then obviously when you provide a legal aid system which is designed to help people who don't have the financial means to help themselves and tend to be people who end up in court, there will then be resentment.

Any minister who stands up to that resentment and says it's a fundamental principle of our system of justice that we make sure people who are accused have first-rate representation, that that is absolutely essential, I will applaud. There is no question in my mind, and what I want to do through our ensuing discussion is to put forward what I think are constructive, reasonable proposals as to how to strengthen the legal aid system. I would ask that you consider them seriously.

Hon. Mr. McMurtry: I can assure you, Mr. Warner, that I will consider them seriously. I want to reiterate that while from time to time the discussion may warm up a little bit, although I certainly don't ever think it really becomes heated. I personally regard the estimates as an invaluable opportunity for me to have the input of members of the committee; I invariably learn a great deal from this input, I invariably get some good ideas from the members which I am very glad to adopt as my own.

Mrs. Campbell: But not acknowledge it.

Hon. Mr. McMurtry: Even acknowledge it from time to time.

Mr. Chairman: Mrs. Campbell, a question?

Hon. Mr. McMurtry: Just before I forget, and I ask your indulgence and your guidance, Mr. Chairman, I told Mr. Ziemba earlier I would have a full report on the issue he raised at the beginning today. I have a not lengthy report I'm going to put on the record. I can do it tomorrow morning if you like, or tomorrow afternoon or whenever.

Mr. Chairman: Mr. Ziemba has indicated to me he would be happy to act as chairman tomorrow since I would like to spend a little bit of time at a certain convention here in town.

Mrs. Campbell: Oh, is there another convention?

Mr. Chairman: There is another convention here in town.

Mrs. Campbell: Is there any place you'd rather be?

Mr. Chairman: Perhaps it would be more appropriate for you to do it at that time.

Hon. Mr. McMurtry: Yes, it was basically to assure Mr. Ziemba that his concerns—

Mr. Chairman: Only one budgie died.

Hon. Mr. McMurtry: I'll just put on the record this portion of my report.

We have now been in touch with officials in the Ministry of the Environment, the occupational health and safety division of the Ministry of Labour and the forensic sciences division of the Solicitor General's ministry. They have concluded that styrene did not pose a health hazard in Mississauga, nor was there any possibility of the production of cyanide.

So if you happen to encounter Mr. Ziemba later—he seemed to be very concerned about this so I think it's important we put that on the record. I don't know who else is present who may be interested in it.

The statement I was going to read into the record is more complete than that. It indicates where he may have been, understandably, a little confused by what he might have heard. Because of the extent of his concern I wanted to let him know we were concerned about it and wanted to respond.

Mr. Chairman: I'm sure that Mr. Ziemba will appreciate your response. Perhaps you can read it into the record tomorrow.

Mrs. Campbell: I too am a supporter of the legal aid program, without any question, but I have a concern that there seems to be, and perhaps it's only in my perspective, a thrust towards the criminal section of it. I wonder if we have had any real review so far as the civil aspects of legal aid are concerned.

In looking at what is needed by counsel in the way of gathering information and evidence, it always seemed to me that aspect was rather neglected in the system; provision of funds for travelling to interview witnesses and so on, that kind of thing. I wonder if we are taking as close a look at that aspect of legal aid as we are at the criminal aspects of it. I think they are equally—well perhaps not equally, but they are of great importance to citizens who deal with the courts through the legal aid program.

Hon. Mr. McMurtry: I suppose I should make a very brief response and then invite Mr. Campbell and Mr. McCourt to comment in the remaining few minutes.

I agree, Mrs. Campbell, that most of the attention inside the Legislature, as well as among the public and in the profession, seems to have focused on the criminal aspect of legal aid, which I guess represents about 60 per cent or more of the expenditure. Since the liberty of the individual involved is often an issue this tends to receive a higher public priority, but I certainly agree with you that the trauma of a civil problem, for the average citizen can be in most respects of equal, or almost equal, significance; although certainly not the same as perhaps going to jail for a long time.

Mrs. Campbell: Or even for a short time.

Hon. Mr. McMurtry: Or even for a short time.

As far as I am concerned, the legal aid plan administrators are aware of this. There seems to be less controversy as a result of the civil plan. Most of the criticism I hear tends to be—and this is only a personal sampling that has happened to come to my attention so it may not in any way be demonstrative of the overall picture—tends to be from people who are being sued by individuals on legal aid certificates, and who are annoyed that they are being sued in such circumstances. For example, if I might in-

ject a slight note of humour—and perhaps the person who wrote me the letter wouldn't be amused by the fact that I would even regard it as slightly humorous—but I am reminded of a gentleman in a rural community who was absolutely incensed when his wife left to take up residence with a much younger man and ended up suing him for a share of the home on a legal aid certificate. It's that type of issue that gets drawn to my attention from time to time, as opposed to those who feel they have been denied that sort of assistance.

Mrs. Campbell: I have had those too.

Mr. Renwick: I think the younger man was a lawyer.

Hon. Mr. McMurtry: In any event, Mr. Campbell or Mr. McCourt, because the time is restricted, might wish to make a general observation at this time.

Mr. A. Campbell: Initiatives have been taken in the criminal law area because it is one of the largest areas of the plan. It does involve the liberty of the subject; it's a highly specialized area; it is an area in which there is a great deal of continuing education available now. So in terms of getting a system in place that's where we figured we had to start.

Certainly some of the specific initiatives, such as the research bank, we hope will be adapted to other areas of the law. I assume the next area would be family law, but it's such a new way of doing business it is going to need a fair run to sort out its problems before it expands.

Mrs. Campbell: That will definitely blow the whole plan if you are not careful.

Mr. A. Campbell: It is the intention, as I understand it, to move into the next highest volume area, and the next highest area of personal concern to litigants would be family law.

I can't give you a timetable, but certainly so far as I know it's accepted by the members of the joint committee that it has to move into the family area at some time.

That's also an area where social investigators helping out can play a role and have a great deal of potential, perhaps even more in that area than in criminal law, and that's where we hope the next series of initiatives will come.

Mr. Renwick: In the interest of tidiness, if we wanted to revert, and if the Attorney General has another 10 minutes or so, I would like to deal with that one matter on vote 1401, if that's all right, and then return to legal aid tomorrow.

Mr. Chairman: Yes, we'll continue legal aid tomorrow if that's okay with the Attorney General.

Mr. Renwick: Have you 10 or 15 minutes?

Mrs. Campbell: He has the Joe Clark dinner; didn't you hear that?

Mr. Renwick: I know that.

Hon. Mr. McMurtry: I was hoping to get home, settle a little family problem with one of my children and be back downtown again by seven. If it would be more convenient for you to deal with it today, Mr. Renwick, I will remain.

Mr. Renwick: It's not so much convenience, but maybe you'll want to reflect on it overnight. I'm not dealing with the criminal law aspects of this matter nor am I dealing with the process of the police in that. I will perhaps want to raise the police question later, but my specific point is the question of the propriety of my colleague Ed Ziemba's call to the justice of the peace in Barrie about Mr. Brando Parras. If the facts turn out to be of any particular significance, I could easily get sworn statements of the situation.

Very briefly, the situation was as follows: On August 27 Mr. Parras was charged with impeding and obstructing the police and was in court on September 4 when he was remanded to November 7 and subsequently remanded to December 5. The case is still before the court.

On October 1 he was charged with mischief. This has to do with the Radio Shack strike. The case was to come on on November 7. I assume because the other matter was coming up it again was remanded to December 15; so it is before the court.

In any event, on the Tuesday prior to Thanksgiving weekend, which would be I think October 1, at about 9:30 a.m., two Peel regional police officers appeared at his home. He was at work. They spoke with his wife. They said they wanted to talk to him. She told him that when he came home. He said if they had wanted him to go somewhere with them he would have gone to the police station and reported on the matter.

In any event, nothing developed about that until the Friday evening, which was I believe October 4 of the long weekend. Between six and 6:30 on the Friday evening two police officers of the Peel regional police came to his home, took him to number 12 station at Dixie Road and Eglinton where he was detained for about three hours. Then two officers from the Barrie police arrived and took him to the jail in Barrie. He arrived there about 11 o'clock on the Friday evening.

In due course the justice of the peace arrived and told him that he would be detained. Mr. Parras said he then turned and walked away and he had no opportunity to say anything to him with respect to his detention at that time.

My colleague apparently went to the jail to visit Mr. Parras on the Saturday evening and in talking with Mr. Parras said he, my colleague Mr. Ziemba, would try to talk to the justice of the peace to see if he could be released because of the holiday and whatever was involved in it.

Hon. Mr. McMurtry: I'm sorry. What was the time of Mr. Ziemba's attendance?

Mr. Renwick: Saturday evening.

Hon. Mr. McMurtry: Saturday; 24 hours later?

Mr. Renwick: A day later, as I understand it. As I say, I can actually get all of the facts confirmed, if necessary.

What concerned me was simply Mr. Ziemba's position as a member of the assembly in a situation like that. I don't want to go into the whole story of Mr. Kerr and Mr. Munro and all of that business, but the substance of that was that certainly in so far as a person holding an office of profit under the crown was concerned there shouldn't be calls made by Solicitors General and others to the police about cases which are pending in the court.

There has never been any such guideline for members of the assembly. Indeed I would be opposed to guidelining that kind of matter for the private member of the assembly, it's a matter for his individual judgement.

What bothered me was that there was an aura around the discussion in the press, and I think on the radio, that would indicate that was in some way not a proper act of Mr. Ziemba to have contacted the justice of the peace to attempt to arrange to get Mr. Parras out for the weekend.

Detached altogether from Mr. Ziemba, just speaking about a member of the assembly, I had the feeling that if I were placed in the same position, in other words detaching myself from being a lawyer so I can't pretend I'm under the guise of representing the person, if I had been called as a member of assembly by a person in my constituency in those circumstances on that evening I don't believe that I would have had any hesitation whatsoever in speaking, or trying to speak, to the justice of the peace to find out if it was possible, and if so under what conditions, to have the particular person be released, either on his own recognizance or whatever the terms were; or to inquire why he was being detained, particularly in this circumstance.

In due course, at two o'clock on the Tuesday, Mr. Parras appeared in the court in Barrie. He signed a paper not to participate in any activity at Radio Shack in Barrie. He was released and came home. He gave an undertaking to stay away from the picket line. He was home some time late on Tuesday.

In all of those circumstances I felt that a member of the assembly would be acting in a quite proper and quite appropriate manner, where a citizen has been deprived of his liberty in those circumstances, to try to ascertain the basis on which he was detained.

I wonder whether you share that feeling or whether you feel there was anything improper in the conduct of my colleague as a matter of something verging on principle with respect to a member of the assembly in those circumstances.

Hon. Mr. McMurtry: I'll put it this way: there's no way I could properly respond in a few minutes.

Mr. Renwick: All right, fine.

Hon. Mr. McMurtry: I will say I am concerned about that. I am not unsympathetic to the situation in which Mr. Ziemba found himself, but I am very concerned about a telephone call of that kind. It's something I've discussed with senior officers of the crown. I think we should take a few minutes tomorrow to discuss this very important issue.

Mr. Renwick: That would be fine.

Hon. Mr. McMurtry: I would like to have a full response for you. I could give you a response now, but I wouldn't be satisfied I recalled all the matters we discussed at the time. We'll be able to do that tomorrow.

The committee adjourned at 6:04 p.m.

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Third Session, 31st Parliament
Thursday, November 22, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

THURSDAY, NOVEMBER 22, 1979

The committee met at 3:54 p.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL
(continued)

On vote 1402, administrative services program; item 1, main office:

Mr. Chairman: We will call the meeting to order.

Mrs. Campbell: I have a question for the minister, in light of the discussion in the House with reference to his proposed bill on citizen review or whatever it is. The minister indicated in the House he would be delighted to discuss this matter since we were in his estimates. Will the minister table the draft legislation or whatever it is that is being discussed broadly with other people, in the hope this committee might assist the Solicitor General, Attorney General or whomever to prepare legislation that would be acceptable and would pass through the House this session?

Hon. Mr. McMurtry: We don't have draft legislation at this point. We think we are very close to the point where they will begin to draft legislation. They have a pretty good idea of what is required. The difficult issues have to do with the matters that are regarded by Chief Adamson, for example, and senior officers as matters unrelated to public complaints and where the internal disciplinary procedures are the responsibility of the police force, the senior officers and most particularly the chief. The Metropolitan Toronto Police Association takes a much broader view and would like to see a lot of matters taken out from under the jurisdiction of the chief and dealt with by a complaints commissioner.

Fundamental to this are a lot of matters that really aren't related to citizens' complaints but to the rights of management versus the rights of the employee with respect to some internal procedures. It goes without saying this is a highly sensitive issue. I'm not going to introduce legislation, quite frankly, that the chief of police, for whom I personally have great respect, and his senior officers feel will undermine his authority in a substantial manner. I am not going to take the responsibility for doing that, nor am I going to introduce legislation the police association is going to dispute publicly.

We have been discussing this with various other groups as well as it's not just a police matter. But I don't want to introduce legislation that is clearly unacceptable to either of the two major components of the police department, namely, the rank-and-file members of the police association, who have a number of concerns, and the senior officers led by the chief. We are getting much closer to some reasonable consensus. For example, one of the issues I would be prepared to discuss is one on which I understand the police association has had some communication with the NDP caucus—

Mrs. Campbell: They have also had it with the Liberals.

Hon. Mr. McMurtry: —and with your caucus. There is a substantial disagreement on another aspect of the legislation regarding the onus of proof. As I recall, in his report, Mr. Maloney apparently recommended that the complaint be considered proven if the proof is beyond a reasonable doubt. The police association feels very strongly that this burden of proof must be beyond a reasonable doubt.

The NDP brief appears to make the case very strongly that it should be only on a civil preponderance, on a balance of probabilities. I would welcome colleagues and the NDP caucus discussing this aspect of the matter with the police association because it's a very serious issue with them.

Mr. Warner: You can't sidestep the question forever. Mrs. Campbell has asked you a question.

Hon. Mr. McMurtry: Hold it now, you're just playing silly little games. I'm not going to discuss it any further. I am tired of this.

Mr. Warner: I'm not playing games. You refused to answer questions in the House. Your refused to answer questions from the Leader of the Opposition, from Mrs. Campbell, from myself and from everyone else who is asking you.

[4:00]

Hon. Mr. McMurtry: You are talking nonsense.

Mr. Warner: Will you introduce a bill in this House before this House prorogues for Christmas, yes or no? That was the question that has been asked of you several times. You still refuse to answer it.

Hon. Mr. McMurtry: Obviously, you're not acting for Mrs. Campbell. In view of the obnoxious behaviour of the member for Scarborough-Ellesmere—

Mr. Warner: Obnoxious?

Mr. Chairman: Order, please.

Hon. Mr. McMurtry: —we're obviously not going to be able to have a perfect discussion.

Mr. Warner: It is a perfectly legitimate question, Mr. Chairman. I don't understand why this minister continues to refuse to answer our direct question. It is not just me who is asking. Many members in the assembly have asked. All we want is a straight-forward answer. Even the government House leader could not tell us today at lunch-time whether or not you would be introducing a bill. The minister won't even tell his own government House leader whether he is introducing a bill.

Mr. Chairman: A supplementary, Mr. Renwick?

Mr. Renwick: Yes. I see it this way. Everyone recognizes the complexities and difficulties of the problem. I think you have to show respect for this assembly in that a bill which comes into the House, on which you have consulted internally with all of the people who are involved in it from the point of view of what you take to be your responsibilities, puts you in the position of saying to us, "Take it or leave it." That is unfair to the members of the assembly. I, therefore, plead with you, however sketchy and with whatever qualifications you want to put on any of the provisions, that you introduce a bill, even to the extent of introducing a bill which has the version which you want, highlighting by way of asterisk or underlining or red ink what the alternatives to the disputed clause are, so that it is very carefully seen that you are not in any way in a position where you are saying to the assembly, "Take it or leave it," but where you are saying, "This is a complex problem. The place for it to be sorted out is in a public forum."

Then when the bill comes in, we would be quite agreeable to having it referred out to allow people to come and speak to the matters and have their viewpoints expressed. We recognize there comes a point in time where a decision is going to have to be made. The process may be such that in committee hearings in January and February the various points could be heard. Because of the complexity of the matter, it may well be that neither of the opposition parties is going to take the bull by the horns and necessarily say, "We are now going to amend this bill in defiance of the Attorney General, report it back to the House and place the problem back to him."

Those occasions do arise, but this isn't one of them. This is an occasion where you are publicly committed, if I read the news reports properly, to introducing a bill. The complexities are known and the differences of viewpoint are known. The responsibility of chiefs of police are respected by the assembly just as much as they are by you. The rights of the police officers are respected in the same way. I urge you in whatever way I can to accede to the request which has been made to introduce that bill, with whatever caveats there are, and allow us to proceed by way of public discussion about a matter of immense importance.

Therefore, I come back to that long supplementary response to the question raised by Mrs. Campbell and by my colleague, Mr. Warner, but you have got to understand that we wanted to wait for you. We were not interested in being in the position of trying to second-guess you on what a bill should contain. The minister left us no alternative but to go to work as best we could with great difficulty over a period of time and come up, not with a draft bill, but what we thought highlighted some of the essential principles.

We may disagree with you on how the essential principles should fall. But I think you have to give us credit for the resolution standing in my colleague's name. In substance, the essential principles are there.

You may not agree with our way of solving it: the burden-of-proof question, the duty of a police officer, the right of the citizen, the right of the police officer, the procedural device for making it work and the protections required to make sure that police officers are not harassed and that citizens are not harassed. Those are complex problems. But if the process we are engaged in in the assembly has any meaning, surely that is an avenue which you could accept as a reasonable way of going about this matter.

Hon. Mr. McMurtry: I appreciate your concerns and I appreciate the manner in which you have expressed them. What I thought I said in the House today was I

certainly intend to produce legislation as soon as possible this fall. I stopped short only of guaranteeing it absolutely. I would be prepared to go so far as to say I am almost 99 per cent certain I will. I think you have to understand, which I think you appreciate, the dimensions of this problem. I think you understand also the sensitivity of this issue internally, particularly as it relates to the police association and the senior officers of the police.

I was concerned about not introducing legislation if it was going to produce a major internal confrontation in that department. As I say, I am almost 99 per cent certain we can introduce that legislation without producing such a confrontation, which clearly would not be in the public interest. I will know a lot better by the time the estimates resume next week and will be able to advise the members much more fully as to the stage we are at. Quite frankly, we are at a very sensitive stage right now.

Mr. Linden who has been doing a major amount of work in relation to interested parties has been working very hard at this. I simply don't want to encourage confrontation and polarization in this issue if it can be avoided.

A copy of the brief that was delivered to us, which contained the NDP resolution, was provided to the Metro police association. Mr. Linden provided that to the police association as soon as we received it or at the earliest possible opportunity so they would have the benefit of your views.

We are not attempting to shut out the Legislature at all. This is why I said that even though it is a Solicitor General's matter, I would be very interested in discussing this further during the Attorney General's estimates. The Attorney General has to have some involvement in this process, regardless of whether or not the Solicitor General is a separate individual, because these issues do touch the rights of individuals in our community in a very meaningful way.

I invite representatives of the NDP caucus and the Liberal caucus to discuss this issue with the police association. It would be helpful if the police association were to know the views of the two caucuses in this regard. They are aware that in whatever form we introduce legislation the opposition not only has the right but the responsibility, if it feels it is a matter of duty to do so, to amend the legislation. We invite this sort of participation, but I don't want to invite it in a way that is going to set the whole process back.

I will be able to give you much more information as to just where we are at when the estimates resume next week because the next several days are going to be very crucial in this process. If there is a major disagreement, it is simply going to mean internal confrontation. The public, very justifiably so, has a very high regard for the police force in this city, despite the problems, and it is not going to look favourably upon legislation that produces confrontation within the department itself.

Mr. Renwick: May I make another suggestion on this matter? It is not without precedent in the assembly for a bill not to be put up for second reading before it is referred out. It is possible to read a bill the first time in the House and with the consent of the House to put it out to committee. Then we don't have the caucuses in opposition having to decide in the House whether they are going to stand and oppose the bill on principle. Put it out to the committee after first reading and then let us hear what has to be said. I don't believe it can be so perfect there won't be some suggestions that can be made.

Hon. Mr. McMurtry: There's no question about that.

Mr. Renwick: There would undoubtedly be some opportunity then to provide a method by which the bill could be withdrawn and a new bill introduced or the bill could come back in to the assembly or the Attorney General could make his stand on the position he wants. We would then have the opportunity to support it or oppose it after it has had the opportunity of the public kind of airing that is involved.

The sense of exclusion is almost total from the process. I, for one, understand you would like us to meet with the various people or sides involved. That always poses a problem. We can't do that. I don't think any of the interested groups are going to be intimidated from coming or that anybody is going to ride roughshod over them. This is an essential matter for it. It is public business that has to be transacted in public. Can't we get on with solving the problem instead of this constant, continuous delay on it? Or are we going to end up suddenly being faced with a bill and having the Attorney General stand in the House saying, "If it is not passed, then it won't be passed this session"?

Hon. Mr. McMurtry: I had indicated to some of your colleagues we would share the contents of the bill before it was introduced, Mr. Renwick. What I am prepared to do is ask—and it would be helpful to do it in a non-confrontation atmosphere—Mr. Sidney Linden, whom I retained as special adviser,

to meet with you and the members of your caucus. If you are interested, I will make an arrangement for that to be done early next week.

Mr. Warner: That doesn't introduce the bill. That is not really what we are asking. I don't understand why you won't.

Mr. Chairman: Mrs. Campbell has the floor.

Hon. Mr. McMurtry: I wonder if I can go and direct a question to someone who, I think, is prepared to adopt a little more mature attitude to this problem, the member for Riverdale.

Mr. Renwick: No.

Mr. Warner: Don't try it. I understand the issue and I have read the material. As a matter of fact, you may be interested to know this issue started in 1970 at our convention. I have been following it ever since. So don't try any of that nonsense with me. It is an important issue. I wouldn't be so upset if it wasn't so important and if you hadn't refused to answer my questions in the House.

I don't know what upsets you about my resolution or my question. What disturbs me is that we cannot get a commitment from you in the House—to follow on those nice press statements—which says, "I will be introducing legislation before Christmas." I don't understand what the problem is, but I wish you would stop the fence-sitting.

Mrs. Campbell: When I made my original request, recognizing the complexities of the issue, I had hoped it might be a helpful approach. The Liberal caucus is as concerned as anybody else and would not like to be excluded from these arrangements. Basically, because of its general importance I made the somewhat unusual request of the Attorney General that we might have the draft legislation or whatever it is. I had assumed, incorrectly as it turns out, there was something before these groups to which they would be responding. I take it that is not the case.

[4:15]

Hon. Mr. McMurtry: That is not what I said.

Mrs. Campbell: I'm sorry. Whatever they have before them, it would be useful if we had it too, so we could keep abreast of the situation in the hope we might be able to come to some consensus to get a bill through this House which is very much required as far as the public is concerned.

I don't want to upset any delicate balance at this point. I understand that. But I do hope the Attorney General is telling us—and I don't want to put it at a higher level than he did—that he will be in a position to open up a bit with this committee next week. In a case of this kind, once this bill is introduced in the dying sessions of the Legislature, we may all have a certain resentment and a certain feeling that because we are aware of the importance of it we may feel rushed. I don't think we should be rushed. We should be a part of the ongoing deliberations so that we may perhaps improve it as we go.

I am very concerned about delays. I understand a good deal of the problem. My intent was not to engage in confrontation.

Hon. Mr. McMurtry: I know it wasn't.

Mrs. Campbell: I thought my request was a reasonable request flowing from the statement of the Attorney General's in the House that since his estimates were on, the matter would be discussed in this committee. I, personally, find it easier to enter into a discussion if I have a proposal of some sort before me to which I may respond, rather than a general discussion which might not be that productive in this committee.

Hon. Mr. McMurtry: As I say, we'll see what information we could have for you next week. I can't predict precisely what that will be. I renew my offer to have my key adviser, the special counsel in this matter, meet with any of the members of this committee to discuss the proposals. That offer stands. If you want to take me up on it, I assume I will hear from you and we can arrange such a meeting.

Mrs. Campbell: The difficulty with that is not that I, for one, would not be prepared to enter into such a discussion, but that the policy implications are still your policy. Without understanding how you view the situation, it won't be anything other than a rehashing from my point of view of this issue.

Hon. Mr. McMurtry: I think you misunderstand me, Mrs. Campbell. Obviously, special counsel would be prepared to discuss with you the direction in which we are going, without committing ourselves beyond the point that we are prepared to commit ourselves, pending the possibility of some consensus by these two groups. I think that would be helpful. In any event, I suppose we wouldn't really know until it was tried.

I expect to be in the position by the time the estimates resume next week to be somewhat more specific. It is my intention to introduce legislation. I shrink from giving an absolute guarantee when there is a slight possibility, however slight, that the introduction of the bill will cause a major problem at a time when it is not in the public interest to have that kind of internal confrontation. I repeat what I've said publicly, namely, that

it is my intention to introduce legislation. Obviously, it would be very embarrassing for us if the legislation is not introduced, given what we've said about it.

Mrs. Campbell: In conclusion, as far as I'm concerned, you must remember I have lived with this particular matter prior to October 28, 1969 when I moved the motion —it was all I could do—to seek enabling legislation for Metro. At that time, we had the police, and everyone before us. I'm really puzzled as to why it comes on the scene so late, as far as the government is concerned. It has been bruited with the Morand report, the Maloney report and all that sort of thing and it was bruited prior to that at Metro when we were getting constant complaints about police harassment and brutality, which I covered in my opening statement. I feel when it comes forward, it's important it comes forward with all the best efforts of everyone in the House. I don't think the atmosphere is that good when we appear to be the last to know. I'm putting it in those terms and I won't belabour it.

Mr. Chairman: Before the Attorney General replies to you, Mrs. Campbell, I'm going to apologize to the committee because I have another commitment. I would like to deal with a small procedural matter. We should be able to finish the estimates for this ministry on Wednesday if we agree to sit from 9:30 a.m. till 12:30 p.m. and 2 p.m. until 6 p.m. next Wednesday.

Mr. Warner: If my calculations are correct, by sitting tomorrow and the normal hours next Wednesday, 10 a.m. until 12:30 p.m. and 2 p.m. until 4:30 p.m. we will complete the estimate.

Mr. Chairman: Your calculations must be different than mine, Mr. Warner.

Mrs. Campbell: Let's take the Chairman's, to make sure.

Mr. Chairman: I have checked it out.

Mr. Warner: I'm certainly willing to sit.

Mr. Chairman: What I would like to do is advise the House leaders we're prepared to start the estimates of the Solicitor General on Thursday.

Mr. Warner: That's fine with me.

Mrs. Campbell: My, my, that's going to be interesting with the personnel involved.

Mr. Chairman: It's agreed we will sit on Wednesday and use what time is necessary to finish off these estimates. We will sit tomorrow as usual on these estimates.

Mrs. Campbell: Until noon?

Mr. Chairman: Until noon.

Mr. Ziemba: On these estimates or private bills tomorrow?

Mrs. Campbell: When do we do private bills?

Mr. Chairman: We don't have any before spring.

Mrs. Campbell: Good.

Mr. Chairman: I'm going to ask Mr. Ziemba, who has kindly volunteered to take over the chair for the rest of the day for me, kindly to step forward. I appreciate this.

Hon. Mr. McMurtry: I have another procedural matter.

Mrs. Campbell: Don't tell me you can't come Wednesday.

Hon. Mr. McMurtry: I'll be here.

Mrs. Campbell: You wouldn't survive it.

Hon. Mr. McMurtry: Mr. Renwick asked a very important question yesterday in relation to the conduct of our colleague, Mr. Ziemba. I wanted to deal with this at length today. I really don't think it would be appropriate to deal with it with Mr. Ziemba in the chair.

Mrs. Campbell: Could Mr. Renwick take the chair for that purpose?

Mr. Chairman: That would be difficult.

Hon. Mr. McMurtry: My information today isn't totally complete. I could probably deal with it a little better tomorrow in any event. I might have some additional information.

Mr. Chairman: Perhaps Mr. Stong could take the chair.

Mrs. Campbell: If Mr. Stong could take the chair, we could deal with the two matters. There is a statement to be made and there is also the introduction of the question posed by Mr. Renwick with reference to Mr. Ziemba and the justice of the peace. Was the first statement not related to Mr. Ziemba's request for information about animal deaths in Mississauga? Is that not what we were to get?

Mr. Chairman: Yes. If Mr. Stong would be good enough to take the chair now, those matters may be dealt with after the Attorney General has replied to Mrs. Campbell's last question.

Mrs. Campbell: Yesterday the Attorney General had a statement for Mr. Ziemba. Then he was going to discuss Mr. Renwick's question as I understood it. Am I wrong?

Mr. Renwick: No. I'm quite happy.

Mrs. Campbell: I don't know why I'm the sort of steward of this committee, but that was my understanding.

Mr. Warner: You are doing a fine job.

Mr. Renwick: You are doing a fine job. We don't mind having you as the only Liberal in Metro Toronto.

Mrs. Campbell: Thank you. You might put it more positively.

Mr. Acting Chairman: I recognize the Attorney General.

Mr. Wildman: I do too.

Mr. Acting Chairman: You should, he's sitting right here beside me.

Mrs. Campbell: Is the Attorney General going to comment on anything I said or is he going straight into Mr. Ziemba's question? Is there a response to me or not?

Mr. Acting Chairman: Did you ask a question, Mrs. Campbell?

Mrs. Campbell: Yes, I did. I was putting the position to him, but I don't know whether he has any further comment. He has probably made all the comment he wants to make about what I had to say. Mr. Philip, when Chairman, indicated he would have an opportunity to respond if he so chose.

Mr. Acting Chairman: Is the Attorney General prepared to answer Mrs. Campbell's inquiry?

Hon. Mr. McMurtry: Mrs. Campbell is correct. I do not really have very much to add to what I've already stated. I understand her concern, and the legitimacy of her interest. I expect she will have a fairly good idea of where we're going before the legislation is introduced. I think that's reasonable. As I've indicated, by the time we get together for estimates on Wednesday of next week I expect we'll be able to be a little more definitive with the members of the committee. We'll do our utmost in that respect.

Mr. Ziemba raised a question that was of concern to him at the outset of yesterday's session, which I wanted to respond in detail because of the importance of the question and what I considered to be the weight of his concern. He raised a question yesterday morning concerning the Mississauga derailment, the possible presence of the gas, styrene, and the hazards posed by styrene, particularly in relation to some problem related to the possible production of cyanide. I undertook to report back to Mr. Ziemba before the end of the day, but he was detained elsewhere and it was agreed by the members of the committee my statement would await his return.

Following upon Mr. Ziemba's question, yesterday my staff contacted officials in the Ministry of the Environment; the occupational health and safety division of the Ministry of Labour and in the forensic sciences centre of the Ministry of the Solicitor General. We want to assure Mr. Ziemba we did not take his concerns lightly.

The officials in these three ministries have advised us that styrene did not pose a health hazard in Mississauga, nor was there any possibility of the production of cyanide. Styrene is an unsaturated hydrocarbon which was contained in one tank-car in the train in a semi-liquid form. I am advised the styrene did not burn in the derailment, though some of it may have gone up in the initial conflagration.

The styrene itself, however, did present us with a few minor problems, which I recall fairly vividly. When it combines with chlorine it forms chloro-aceto-phenone, which is an irritant to the eyes and the nose. As a result, to make things easier for those near the site, fire crews covered the styrene with sand, which basically resolved that problem.

The Ministry of the Environment conducted periodic molecular scans out at the site. The only substances detected at any significant level were hydrochloric acid, chlorine and chloro-aceto-phenone. I will give you a copy of this statement and send a copy to Hansard as far as the spelling is concerned. They monitored for styrene, but only occasional traces were found downwind. They are of the view that the initial plume may have contained other substances. Fortunately, these were immediately dissipated.

In so far as the question of cyanide is concerned, I am advised styrene does not produce cyanide when it burns. Simply put, cyanide has a molecular makeup which includes carbon and nitrogen. To produce cyanide, both these elements must be present. Styrene does not contain nitrogen and burning styrene does not produce cyanide.

[4:30]

What may have caused some confusion and may have perhaps misled Mr. Ziemba, in expressing his understandable concern, is that there has been some public concern about hazardous plastics which contain styrene. Polyurethane, for example, can be dangerous when burned in a confined space, but this was not the substance we were dealing with last week. I want to make it very clear that while there were many dangers last week, thankfully, cyanide was not one of them.

As far as animals are concerned, we talked to the Peel Region Humane Society yesterday again. I am pleased to be able to report

that the Peel Region Humane Society is not aware that a single animal, as of yesterday, had died from any sort of poisoning. There were two animal fatalities. A tame bird died from lack of water and a kitten drowned in a toilet. That's the extent of any information they have with respect to animals.

I have a copy of this statement for Mr. Ziemba.

Mr. Acting Chairman: Mr. Wildman, did you have a question on this?

Mr. Wildman: No, not on this.

Mr. Acting Chairman: Mr. Ziemba?

Mr. Ziemba: No, I haven't.

Mr. Acting Chairman: In the absence of any questions, did the Attorney General have another statement?

Mrs. Campbell: The other matter was the matter raised by Mr. Renwick as to the conduct of Mr. Ziemba regarding telephoning a justice of the peace. Mr. Renwick spelled out all the facts, as I understood it. The Attorney General stated he could not make a short reply to that. We were to have his reply now.

Mr. Acting Chairman: Mr. Renwick, did you want to say anything before the Attorney General speaks?

Mr. Renwick: I want to limit very carefully the question asked because there are other questions arising out of the same incident that I want to deal with at an appropriate time in other estimates, maybe in the Solicitor General's estimates or maybe in a later vote in these estimates.

As I said, I don't want to get into a dispute about facts. If we verge on that and start getting into what the facts are, then I want to get a written statement and table it with the committee and try to agree to a statement of facts, so we don't spend our time worrying about that. I have asked only one question.

I have considered the matter. I have talked with the man involved and I have talked with Mr. Ziemba. I have no reason to alter the belief or the feeling I had at the time that as a member of Parliament and not a lawyer I would have done precisely the same thing as Mr. Ziemba had done. In similar circumstances, had I been called by a constituent of mine in those circumstances or if I knew of such an incident, I would feel I was in default in performing my responsibility if I didn't respond to the precise situation which I outlined yesterday surrounding the incident.

I did want to have an opportunity to raise this question because it touches on the position of all the private members of the assembly. It is on that point—and I am not in any way engaged in discussing the propriety or otherwise of the conduct of my colleague—that I am asking the question on the principle of that association.

Mr. Acting Chairman: Are you prepared to answer that precise question?

Hon. Mr. McMurtry: Yes. I agree with Mr. Renwick. I would like to steer away from the facts, apart from the fact of the call. There probably is a dispute as to precisely what was said and, certainly, I don't want to state anything that would indicate anybody in my ministry attempted to make any finding in relation to what the facts were. We have information which may conflict with the information Mr. Renwick has, but that's not the purpose of Mr. Renwick's question. I will attempt to respond without dealing with the facts and, as much as possible, with the matter of principle.

I have looked at the file since yesterday. I haven't had a chance to discuss it with my senior officers, which I would have liked to have done, though I discussed it with them earlier. This is why I suggested possibly tomorrow, but I think we should probably try to deal with it now.

I want to phrase myself as carefully as possible because of the importance of this question. I understand there is bound to be some honest difference of opinion. In my view, it is always inadvisable for any MPP to call a judicial officer about any matter pending before a court.

It must be said, in my view, that the same principle, the inadvisability of such a call, is certainly relevant to any individual who makes a call to a judicial officer to review the merits of an order or the determination that has been made or is about to be made by the judicial officer in question.

The danger of such a course of action is apparent because of the possible perception—and I emphasize the word "perception"—whether well-founded or not, that the caller is attempting to influence the judicial officer by extraneous considerations. Such considerations may be references to matters which would not be admissible before the court or may be more subtle, such as the caller's position or station in life, his occupation, his apparent or even perceived control over the judicial officer, et cetera.

In my view, even a lawyer for an accused should not be calling a judicial officer to discuss the merits of a determination or an order that has been made or is about to be made in the future. I'm putting that forward, of course, as a very general proposition.

Secondly, where the call is merely a request for information or a seeking of direction, less criticism can be levelled at the caller, provided there is no attempt to criticize the judicial officer or the caller does not create the perception of attempting to influence the course of proceeding. It's my view that where the call is by an MPP, however—and this is the difficult area—even where the contact is merely a request for information, the danger of the purpose of the call being misconstrued clearly exists. The better way for an MPP to assist his constituent would be to ensure that counsel was retained on his behalf and then let counsel make any necessary calls as to the time, place and course of the proceeding.

Normally, there would be no shortage of counsel for that purpose and, certainly, a member of Parliament should have access to counsel, I think, almost any hour of the day or night. Again, I emphasize the role of the MPP, a member of the Parliament of the province and the perception of any call to a judicial official from somebody in that position of some real importance.

As I say, I don't want to get into the facts, but if the call is made, obviously, in an aggressive manner or is in any way perceived to be a call that berates the official or justice of the peace in this case then, of course, my concerns would be much greater. I don't want to get into the facts because there probably is a disagreement.

It's a little difficult to describe this totally in the abstract because some of my concern is related to the circumstances of the call as they were related to me. That's not to say whether I preferred the version of the JP or the person at the jail or Mr. Ziemba. I haven't had Mr. Ziemba's version except as I've read it in the newspaper. Certainly, I have to tell you the report of the call, as it was given to me by a jail official and by the JP, did heighten my concern.

Mr. Renwick: On a point of order. I'm not engaged in the nature of the conversation which took place. That's precisely the quagmire I don't want this committee to get into. If it requires that, then we can do it in an orderly and proper way. I tried specifically, in outlining the facts yesterday, to give the hours and the days on which these events occurred and the circumstances which led to the call. That's all. The quality of the conversation or what was said is not relevant to the question which I raised.

Mr. Acting Chairman: Were the facts you stated yesterday accepted by the Attorney General in answering your question?

Mr. Renwick: I don't know whether they were.

Mr. Acting Chairman: There was no agreed statement of facts?

Mr. Renwick: If the Attorney General says they are not acceptable as to time and place, I will get sworn statements and give them to the committee. I'm trying to avoid the necessity of its degenerating into that kind of a situation. I was trying to deal with a citizen's being taken from his home on the Friday evening between six and 6:30 on October 4, being released at 2:30 in the afternoon on the following Tuesday, on the long weekend of a holiday in the situation where, when visited by my colleague on the Saturday night in jail after having been detained for 24 hours, my colleague said, "I will see what I can do about bail for you." He called the justice of the peace.

My question is not with the quality of the conversation that took place. I felt in the identical situation, detaching myself entirely from being a lawyer, if a citizen in my riding was in that circumstance, I would be in default if I did not try to reach the justice of the peace who had authority to make a decision with respect to the detention of that citizen for the balance of that long weekend. That is the sole question I was about and nothing else.

[4:45]

Hon. Mr. McMurtry: I had no intention of referring further to the facts, but obviously a certain amount turns on the facts.

Mr. Renwick: Do you disagree with my facts about the dates and times? If you do, I'll get sworn statements.

Hon. Mr. McMurtry: I think you're avoiding the central issue, that is, the character and the nature of the call. I think that is the central issue. I have agreed not to dwell on that because there is a dispute. I'm not going even to be perceived to have made up my own mind, but I obviously have to be concerned about a version that is given to me.

I don't intend to discuss the facts further. I have no reason to quarrel with the facts of the times and dates at this point. I haven't verified them because I accepted them as given to me.

Mr. Renwick: As substantially correct.

Hon. Mr. McMurtry: Substantially correct. The only other relevant facts, leaving the call aside, that should be noted on the record are that in this case the justice of the peace was under a statutory duty not to release the accused unless the accused showed cause, after being given reasonable

opportunity to do so, why he should not be held in custody. The burden of proof was reversed in this case by virtue of section 457 of the Criminal Code inasmuch as the accused had already been released from custody on August 27 on another indictable offence.

The only other point I'd like to make at this time that I think is relevant to this whole matter is that show-cause hearings by the direction of the chief judge are to be held in open—

Mr. Ziemba: Excuse me, did you say indictable?

Hon. Mr. McMurtry: Indictable, yes.

Mr. Ziemba: Is that correct?

Hon. Mr. McMurtry: That's my information, yes. Show-cause hearings by the direction of the chief judge are to be held in open court and not in a police station. They're to be held in the presence of a reporter or recording apparatus and are to be open to the public. The next bail hearing court, by virtue of the Monday holiday, as already mentioned by Mr. Renwick, was for the Tuesday. If resources permitted holding such a court every day of the week, it would be desirable. If this could be done without undue expense—and I certainly think it would be possible—I would like to see it done.

As I understand it, there was another course of action open. I only mention this for the guidance of those who may be interested in what to do in such a situation. Counsel for the accused could contact a member of the crown attorney's office in an attempt to have the accused released on consent without the necessity of his showing cause. I gather this does take place regularly. A crown attorney can consent to the release without the necessity of the formal bail hearing where he is satisfied it's in the public interest to do so.

I don't think I can add anything further to what I've said without getting involved in the additional facts of the case.

Mrs. Campbell: I don't know the facts, but I have a general feeling about this situation. As the Attorney General was making his statement, I thought again there was a conflict between what Mr. Renwick had said and what the Attorney General said. My memory may be faulty, but I thought Mr. Renwick pointed out there was no opportunity accorded for the accused, that the justice of the peace came in and went out. Was that not the case?

Mr. Renwick: My notes of my conversation with Mr. Paris are that after having been taken from his home between six and 6:30—I shouldn't say "taken"; he went willingly with the police officers—sometime after 11 p.m. in the Barrie jail when the justice of the peace appeared and said, "You are detained," Mr. Paris said, "He turned and walked away. I had no chance to say anything."

Mrs. Campbell: That was my recollection, and it seemed at variance with what the Attorney General had said.

Mr. Renwick: If we're getting into any argument, I will get a sworn statement with respect to my version of what Mr. Paris had told me.

Mr. Acting Chairman: Can the Attorney General respond to that?

Mr. Renwick: I find the unreality of the response of the Attorney General almost unbelievable. I want to speak to the quality of the administration of justice. A citizen of this province is taken from his home between six and 6:30 on a Friday evening before the long Thanksgiving weekend. Some five hours later he is in Barrie before a justice of the peace, who gives him no opportunity to say anything. The following evening, having been detained now for well over 24 hours, he is visited by my colleague. My colleague said, "I'll try to get you out. I'll try to talk to the JP and try to arrange bail." My colleague is criticized, and the citizen is left in jail until 2:30 on the afternoon of Tuesday when he is released by signing a paper that he will not participate in the union activity at Radio Shack.

The detention of that man in that home upsets and concerns me so much. What concerns me more is the lack of sensitivity of the Attorney General or the lack of concern about the quality of what took place. I'll drop the matter in so far as I'm concerned at this point. I will disagree forever with the Attorney General on the question that my colleague did anything wrong. In the identical situation, I would have acted exactly that way. If I were a private citizen, not a lawyer, I would act identically in that way. In no way was my colleague in breach of any standard of conduct, other than the highest one in the performance of his obligation to a person deprived of his liberty.

I make the point there was no interference with the judicial process with respect to the matters on which he was on charge—absolutely none. It had nothing to do with that matter. I make a specific request so that the Attorney General, in his capacity of Solicitor General, will have available during his estimates as Solicitor General a detailed,

specific account of the police action by date and time.

This would extend from the preceding Tuesday or the Monday preceding that, when instructions were relayed through to the Peel police to appear at his home on Tuesday at 9:30 a.m. where they were informed he was at work and went away. Then I want all of the preceding specifics of the instructions in detail of the police activity leading up to six to 6:30 on the Friday evening when the Peel regional police returned, picked him up and took him to No. 12 station where he waited for three hours for the Barrie police to arrive to take him to Barrie. I want that information in detail at the appropriate time. I want specifically also, at the appropriate time in these estimates, the exact statements made by the justice of the peace to Mr. Paris at the precise time when he appeared and said to him in substance, "You are detained," and then turned and walked away. I want an explanation as to the grounds on which the detention took place.

In my judgement, the whole incident—and I've tried to analyze it into three separate components—has resulted in an insensitivity to the quality of justice in this province which is appalling to me.

Hon. Mr. McMurtry: I'd like to respond to that because I'm very concerned about some of the implications.

Mr. Acting Chairman: Mr. Renwick has asked for certain information at specific times when we get to votes and perhaps you could respond then. I'm wondering if you could respond to his first concern, that is, in principle, the length of time that he is alleging a citizen of the province was held incommunicado.

Hon. Mr. McMurtry: He was not held incommunicado. Obviously, we're going to go into some of these facts in relation to the conduct of the police during the estimates of the Solicitor General. I want to say in the strongest terms I regret very much that Mr. Renwick has done one of two things: Either he has carefully avoided the facts of this case in so far as the circumstances of Mr. Ziemba's conduct are concerned—

Mr. Renwick: Mr. Chairman, I object.

Mr. Acting Chairman: Order.

Mr. Renwick: The minister is here to respond, not to attack me as a member of the assembly. I have not "carefully avoided" anything. If the Attorney General wants to play legal games with me, he can play them. I want a sworn statement from the officers concerned tabled in this assembly with respect to every aspect of this matter, concerning the justice of the peace, the police and the refusal to do it.

Hon. Mr. McMurtry: And Mr. Ziemba's conduct?

Mr. Renwick: I am not interested in Mr. Ziemba's conduct.

Hon. Mr. McMurtry: I am, and I am shocked that you're not.

Mr. Acting Chairman: Order.

Mr. Renwick: Then you can table what you want. I'm not responsible for Mr. Ziemba's conduct.

Mr. Acting Chairman: Order. I think we should have some order here for a minute.

Mr. Wildman: Mr. Chairman, on a point of order: Not being a lawyer, but as a member of the assembly it concerns me that one member of the assembly would state that another member seems to be carefully avoiding the facts. That does concern me, and I would hope the Attorney General could—

Mr. Renwick: That's equivalent to telling me that I am lying to you.

Hon. Mr. McMurtry: That's not what I said at all, Mr. Renwick.

Mr. Renwick: I want you to understand that we don't play legal games.

Hon. Mr. McMurtry: You're the one who's playing the games.

Mr. Renwick: I'm not here as a lawyer. I'm here as a member of the assembly and I expect answers to my questions.

Hon. Mr. McMurtry: I'm not going to put up with this nonsense.

Mr. Acting Chairman: Order.

Mr. Renwick: If you call what I put up nonsense, then you have the right to call it whatever you want.

Hon. Mr. McMurtry: I'm not going to sit here and put up with that sort of immature abuse.

Mr. Acting Chairman: Order, please.

Mr. Renwick: I'm sick and tired of the almighty attitude of the Attorney General when the quality of justice in this province is of no concern.

Mr. Acting Chairman: Order. Please take your seat, Mr. Renwick. I wonder, with respect to the specific request that Mr. Renwick has made—

Hon. Mr. McMurtry: I'm not going to respond to anything Mr. Renwick has had to say at this time because he has behaved in a very abusive, irresponsible manner.

Mr. Wildman: Why is it you always use those kinds of adjectives every time you respond to anything that's said?

Mr. Acting Chairman: Order, Mr. Wildman, please.

Hon. Mr. McMurtry: The idea is, if they don't like what is being said, start yelling.

Mr. Wildman: You are fairly good at it yourself.

Mr. Acting Chairman: Order, please.

Mr. J. Johnson: Mr. Chairman, on a point of order: I've sat on this committee too long. I'm sick of it, and I'm sick of the attitude of the NDP. Every time they don't get their way they scream and shout and insult.

Mr. Lupusella: This is nonsense.

Mr. J. Johnson: It isn't nonsense. It's a fact.

Mr. Lupusella: From your side is nonsense.

Mr. J. Johnson: Mr. Chairman, if you can't control this committee, then I feel you should call a recess.

Mrs. Campbell: I wonder if I may make a couple of observations.

[5:00]

Mr. Acting Chairman: Yes, Mrs. Campbell.

Mrs. Campbell: I have to say I was one of those who expressed an opinion with reference to the account I read of what Mr. Ziemba had done.

The account was not full. I was taking the position, which I have hoped to do in other matters, of kind of looking at what our constitution is all about, the roles of the judiciary in the justice system, the roles of the executive and the roles of the legislative branches. It was on those terms and not on the basis of what it is alleged Mr. Ziemba said. Once we are members of the Legislature, it seems to me it is incumbent upon us not in any way to give the appearance of using our position as legislators in any part of the court process.

On that issue I do have some concerns as a result of the discrepancy, which I drew attention to, as to what the justice of the peace did and what opportunity was accorded to the accused. That quality of justice aspect concerns me. I would hope it would concern the Attorney General.

You may recall, Mr. Chairman, when we were dealing with new legislation, when we were fixed with trying to make our courts more accessible—and I think Mr. Campbell will remember it perhaps—I raised that very point of concern, that as we make courts more accessible, this kind of thing can get out of hand. I did not object to the legislation, but I did make that caveat, very clearly I trust. Not to try to cast a judgement on Mr. Ziemba or on any other member of the Legislature, I think it is time, in the light even of that new legislation, for us to look very closely at the role of a legislator vis-à-vis the court system.

If I could bring it to that kind of level, I would appreciate that sort of discussion. I know I am so concerned that in a case where I was asked, because of my knowledge of an accused over a long period of time, to give a statement to someone who was preparing a pre-sentence report, I talked to myself for a while about that, but came to the conclusion since I was not seeking any special privileges, and it was obvious I wasn't, it was proper for me to be of assistance to the court in that kind of pre-sentence report situation.

I want, and I want it very clearly for all of us, to get some kind of position so that none of us is placed in any uncertainty about our actions vis-à-vis the courts. I would hope the Attorney General might address himself to those two aspects, if he can. If the facts are still in doubt, he can't in the one aspect.

You will recall I picked up quite clearly the discrepancy as to what happened at the time the justice of the peace came into the Barrie jail, and they were different.

Mr. Acting Chairman: Mrs. Campbell, would you agree that discrepancy should be examined later on in a specific vote? Perhaps you would be satisfied at this point to have the Attorney General make a policy statement with respect to an MPP vis-à-vis the court without going into detail on this case at this time.

Mrs. Campbell: That's what I sought to do in what I said. But I do share Mr. Renwick's concern in so far as what precisely happened and the quality of justice at that time. If he looks at the two statements, I think the Attorney General would have some concern there on the quality of justice.

Mr. Acting Chairman: Are you not satisfied with Mr. Renwick's suggestion that it be dealt with on the specific vote at this time?

Mrs. Campbell: I am. I suppose I was trying to get us on to a level of discussion that we could all participate in with some degree of comfort.

Mr. Acting Chairman: I wonder if the Attorney General is prepared to respond in principle on the issue of the relationship between an MPP and a court official.

Hon. Mr. McMurtry: Mr. Chairman, some of the members of this committee will recall that the Premier—

Mr. Kerr: We might have trouble defining court official. We talk about judicial officers

and we talk about court officials. Lawyers are all court officials, as you know.

Hon. Mr. McMurtry: That's quite right, judicial officers.

Mrs. Campbell: We certainly can't say you can't call a lawyer. You may need one.

Hon. Mr. McMurtry: I think it's important to note briefly the context of the concern. The Premier on November 22, 1978 wrote the Leader of the Opposition to the effect that he had issued guidelines to all members of the cabinet regarding their communications with the judiciary and key officials in the judicial system. He indicated he felt similar guidelines would be appropriate for all members of the Legislature. It was requested through the Speaker that the standing committee on procedural affairs consider this issue and recommend appropriate guidelines for legislation.

My information is that the Leader of the Opposition agreed to this. I quote from a letter from Dr. Smith dated December 5, 1978: "I concur with your suggestion that the standing committee on procedural affairs should consider this issue and should recommend appropriate guidelines or legislation to regulate the conduct of individual MPPs."

Mrs. Campbell: With respect, I think they were both wrong. I think it should have been more appropriately this committee rather than procedural affairs, but I may be wrong there.

Hon. Mr. McMurtry: The standing committee on justice, yes, but I don't think it's something we should attempt to do during estimates.

Mrs. Campbell: No. But I thought the reference would be more appropriate to the justice committee than to procedural affairs.

Hon. Mr. McMurtry: I don't quarrel with that.

Mrs. Campbell: I don't mean now.

Hon. Mr. McMurtry: Mr. Cassidy responded on December 5, 1978 and indicated, and I quote in part from his letter: "Nothing which has occurred would indicate to me the need for guidelines to be imposed on other members of the assembly. I believe we can rely on our usual good sense and discretion."

Mr. Kerr: He agrees with Arthur Maloney, I think. Isn't that right?

Hon. Mr. McMurtry: He went on: "I do not think the situation calls for any further action until the standing committee on the administration of justice reports."

It would appear that perhaps Mr. Cassidy has left the door open. I don't know. Be that as it may, it would appear at least that the Progressive Conservative Party and the Liberal Party have agreed this should be referred to a committee.

True, I agree with Mrs. Campbell that the standing committee on justice may be more appropriate than the committee on procedural affairs. I have no strong views on that matter. But the New Democratic Party has not agreed to that course of action at this time.

We are going back a year ago, and it may be that the leader of the New Democratic Party may think it's appropriate now or he may not; I don't know.

Mrs. Campbell: He may have been dealing with it in specifics.

Hon. Mr. McMurtry: Perhaps that should be canvassed.

Mrs. Campbell: He may have been dealing with a specific matter rather than the general situation. I don't know.

Hon. Mr. McMurtry: He was replying to the Premier's letter in relation to general guidelines, as to whether general guidelines to the members of the assembly would be appropriate.

Mrs. Campbell: I have to express that I am really worried that we are somehow, among us, at odds with the new legislation. It worries me that there is such an opportunity that, it almost gets to the point of breeding contempt in a sense, to my way of thinking, if we don't straighten this thing out. It's not a judgemental matter so far as the facts are concerned.

I feel it's an inappropriate role for a legislator to take. There are other avenues open and it should be made clear to members who are not lawyers what other avenues are available appropriately and usefully, because people get condemned for all sorts of things that they do with the best possible intentions.

Mr. Wildman: Hear, hear.

Hon. Mr. McMurtry: One of the issues that concerns me here is that I would find it very desirable to have bail court sitting every day of the week. My own personal view is if Monday is a holiday, at the very least they should have bail court on Saturday.

I want to make it very clear that I think there are two clearly separate issues here. One is the issue of the call to the justice of the peace by a member of the assembly. I regret very much that in dealing with that issue Mr. Renwick chose to take my response and suggest that because I responded in relation to that one issue I was, therefore, totally insensitive to the rights of that individual citizen so far as the availability of the bail court was concerned. We were not ad-

dressing that issue. He chose to make, I think, some unfortunate and rather unfair statements relating to the second issue.

In my view there are two distinct issues. On the conduct of a member of this Legislature, Mr. Renwick and I, obviously, have a substantial disagreement. I suggest to the individual members of the committee that this matter be taken up with the respective caucuses, with a view at least to reconsidering whether or not the matter should be referred to the standing committee on justice to consider whether or not guidelines would be appropriate and to have them cover the appropriate area.

In relation to the issue as to what courts should be available for bail hearings I have already made it clear I personally feel quite uncomfortable with the situation where there is no court available Saturday, Sunday or Monday. That aspect does cause me considerable concern.

I want to make it clear I see those as two different issues, though obviously related in this case. I don't doubt the second issue and the fact that there was no court influenced Mr. Ziemba's conduct.

[5:15]

Mr. Acting Chairman: We are not talking about the specifics at this time.

Mrs. Campbell: Could I ask with reference to the material to be tabled that the Attorney General also table a sworn statement—I think it was covered by Mr. Renwick—about the conduct of the justice of the peace? Was that part of your bundle? I'm not sure, but I think that information should be provided.

Mr. Renwick: I'm not concerned about whether the Attorney General's statements are sworn or not.

Mrs. Campbell: I thought you said, "sworn statement."

Mr. Renwick: It seemed to me there were three segments involved in it. Each of the items would best be furthered by being dealt with separately and in isolation. We have discussed one question. The next question is: What exactly did the justice of the peace say to Mr. Paris at the time when he denied him release and did Mr. Paris have an opportunity to speak to it? Exactly what was the exchange, where did it take place, who was standing and who was sitting and where was it?

The other matter, which is of the utmost concern to me, is the transmittal of the orders from the Barrie police to the regional Peel police to go to the home of Mr. Paris on the Tuesday to inquire about him, to be told what happened, to return to Barrie and then at some point or other to have the request reiterated. What was the role of the Peel police? Why did it take three hours for the Barrie police to get down there? What happened when he went back to Barrie at 11 o'clock on Friday night? The reason I want to know that is, in my judgement, there is something wrong in that police procedure. I want to understand what took place.

I was actually endeavouring to assist the committee by trying to toss all three of the issues into the pot because the justice of the peace has nothing to do with how the man got to the jail, nor does the justice of the peace have anything to do with the question of what an MPP should or should not do in those circumstances.

Why I am upset and concerned about it is that a citizen of this province was detained, according to my information, for some 90 hours over the Thanksgiving weekend after he had arrived at a jail in Ontario at 11 o'clock at night on the Friday night before a long weekend. In the real world, it is difficult even for a knowledgeable person to reach a crown attorney, to reach the Attorney General's ministry or to reach whoever it is in order to see whether that man can be released on Saturday evening so that he can go home and join his family.

That may sound like liberal mollycoddling of somebody. This man is a citizen, and there were circumstances under which he was detained for 90 hours. Without adequate explanation to this committee, I think that is wrong in this province.

Mrs. Campbell: I agree.

Mr. Renwick: The information so far indicates to me that it is inexcusable.

Mr. Acting Chairman: I take it that by prior arrangement with the spokesmen from the NDP and the Liberal Party, the Attorney General will take notice of those specifics and deal with them on the appropriate votes.

Mr. Lupusella: I don't want to prolong the discussion. I share the concern raised by my colleague from Riverdale. Being outside the legal field and the judicial process, I would like to ask the man of all the law of this province, the Attorney General, whether or not it is a regular practice within the judicial process to give an opportunity to any individual that has to do with the judicial process to have bail. From what I gather from articles written in the newspaper, it seems that bail is refused to the accused when he is considered, in general terms, a dangerous element, or when the justice of the peace is not satisfied in relation to a serious crime that the

accused should be released. In that particular case, without underestimating the so-called crime which was committed by Mr. Paris, it seems such a right wasn't given to him. I would like to get an explanation about that.

Hon. Mr. McMurtry: I'm not sure I understand the question other than in relation to why he was denied bail. I had attempted to explain by reason of the provisions of the Criminal Code, the accused having already been released a few days before under a bail order in relation to an indictable offence; it was necessary for him to show cause why he should be released unless the crown attorney's consent was obtained. The JP has no authority to release him in the absence of one of those two things happening. I already mentioned the fact that the show cause here must involve a public hearing. Whether or not there would be a consent in those circumstances would depend, as I understand it, on the crown attorney's agreement, given all the circumstances of the case. In this case, to the best of my knowledge, the crown attorney was even aware at the time that this took place of the telephone call and the original appearance of Mr. Paris before the JP.

Mr. Acting Chairman: Mr. McMurtry, I wonder if you could explain to Mr. Lupusella what the circumstances would have been, had there not been a prior release on an indictable offense. That's where the confusion was.

Hon. Mr. McMurtry: As I understand it, the JP would have had the authority at that point in time simply to release Mr. Paris. It would have been within his discretion to release him without a formal hearing. I'd better alert you to the fact that I'm several years away from the practice.

Mr. Renwick: As to the distinction that there is some strange procedure on the basis of the whole historic distinction between an indictable and a non-indictable offence in our courts, it's time we abolished the god-damned distinction if it affects the liberty of the subject.

Mrs. Campbell: That's a very sweeping statement. I'm a little puzzled because I think we could attack the subject matter without going quite that far. However, I'm interested in what you are saying.

Mr. Renwick: My understanding is the charge was mischief. I haven't seen the charge.

Mrs. Campbell: Mischief?

Mr. Lupusella: I guess the chairman pinpointed the main question which I am interested in. It seems that in this particular case, without going into the facts, such discretion or judgement from the JP wasn't applied.

Mr. Acting Chairman: Does the Attorney General have a response?

Hon. Mr. McMurtry: I was just confirming what I said. The JP could have released the accused. I would expect if there hadn't been this earlier charge, the police would not have questioned a show-cause hearing. There would have been no issue.

Mr. Warner: When would you expect to bring us the answers to the many questions that have been raised?

Mr. Acting Chairman: Mr. Warner, in your absence, we agreed we would deal with the specific questions on the appropriate votes as we go through the estimates. Mr. Renwick has stated exactly what and when he wants them. We'll deal with them on the votes.

Mr. Warner: I appreciate that. Knowing we are attempting to conclude the estimates by next Wednesday in the afternoon, it would make sense to me if we were able to have that material by either Monday or Tuesday, in advance of the Wednesday, because the Wednesday will be our last sitting for the Attorney General.

Hon. Mr. McMurtry: I think we've got most of the material now. It's just a question of putting it together. The chief judge has forwarded us a statement, or at least we have a statement from the JP. We cannot compel the JP to give us any information additional to what we already have, but I think we have 90 per cent of the information now.

Mr. Acting Chairman: Would you gather the information and give it to the clerk to serve all of us?

Hon. Mr. McMurtry: We'll gather it. As I say, we're taking it under advisement as agreed upon.

Mr. Renwick: Mr. Chairman, I think the one matter would come under vote 1406, the courts administration program, on the question of what the justice of the peace did. The routines of the police would come under the Solicitor General's estimates at the appropriate time in those votes.

Hon. Mr. McMurtry: Yes.

Mrs. Campbell: I don't want to muddy any water, but it does seem to me if it were possible it would be useful for us to have the three segments in some kind of order. To take one under the Attorney General's vote and then to take the others on the Solicitor General's estimates would be almost like the tragic situation in our courts today where defence counsel are presenting cases somewhat in the manner of a jigsaw puzzle. I'd like the continuity, personally, for my benefit. However if Mr. Renwick feels there's

good reason not to proceed on that basis, I'm perfectly prepared to listen. To me, the whole thing has been raised, although you didn't want to.

Mr. Renwick: May I just express the reason why I didn't want to make the distinction between the justice of the peace and the police? First of all, I thing they are separable matters.

Mrs. Campbell: Yes. I agree.

Mr. Renwick: The justice of the peace is not involved in how it is operated. I'm very concerned about limiting specifically the explanation of the justice of the peace because he is a judicial officer and I do not want him to be involved by any stretch of the imagination with the other parts. I trust the justice of the peace. He is a judicial officer. We're asking for a statement of what transpired, where it transpired and when it transpired.

I'd like him, on the best of his recollections or his notes or whatever it is, to tell us what he said to the man who was detained before him. If he has reasons why he detained him, that is fine. I just want to know what then took place. It was that event which 24 hours later led my colleague, having visited Mr. Paris in jail, to say, "I'll see if I can get you out of jail so that you can go home for the weekend."

Mr. Acting Chairman: I have every confidence that the chairman at that time will not hamper the discussion and allow it to proceed in an intelligent fashion. Perhaps we should get back to the vote.

Mr. Warner: We were on 1402. We're operating in a little different fashion.

Mr. Wildman: Mr. Chairman, you had initially talked a little bit about the legal aid item in the vote. I have particular interest as do my colleagues—

Mr. Acting Chairman: Mr. Wildman, do your questions deal with legal aid?

Mr. Wildman: They deal with native court worker program, which I believe is under 1402.

Mr. Acting Chairman: Are there any other questions on 1401?

Mrs. Campbell: Wait a minute. Vote 1402 has been passed. We'd better get it under legal aid in 1401.

Mr. Acting Chairman: Vote 1402 apparently hasn't been voted on.

Mrs. Campbell: Oh, I'm sorry, vote 1403 has been passed then.

Mr. Warner: Do you see what happened? We started on 1401. We went to 1403 which we carried.

Mrs. Campbell: Yes.

Mr. Warner: We then went to 1402 and, at this point, we are still on 1402, item 1, main office. This includes the legal aid fund and the native court worker program, on which I believe my colleague from Algoma wishes to direct some questions.

Mrs. Campbell: At this point, I don't know where we are at.

Mr. Acting Chairman: Before we get to that, can we clear up 1401 at this time?

Mr. Warner: No.

Mr. Acting Chairman: No?

Mrs. Campbell: No.

Mr. Warner: I believe, Mrs. Campbell has questions. I have one also.

[5:30]

Mrs. Campbell: No, I am reserving mine.

Mr. Acting Chairman: Since Mr. Wildman asked to be first on the list, we will let him proceed with the legal aid program.

Mr. Wildman: I appreciate that. I would like to have some further information regarding the native court worker program. I understand you budgeted $508,000 in your estimates this year. I have had some contact in my area with a native court worker. I really would like you to give us some information as to how the program operates; how many native workers you have now working in cooperation with the legal aid program, and where they are situated.

Hon. Mr. McMurtry: As I think the members know, the purpose of the native court worker program is to assist natives whether they be status, non-status or Metis who are in conflict with the law. The court workers are natives themselves who liaise between the natives who are involved with the law and who come into conflict with the law and the persons involved in the judicial process.

They provide assistance of a non-legal nature in the form basically, of counselling people who are charged with criminal offences. The accused natives are given information generally about court procedures and told of their rights by the native court workers who then refer them to legal assistance or to other resources.

This program is operated through the Ontario Federation of Indian Friendship Centres, which is an umbrella organization representing the interests of some 18 Indian Friendship Centres in Ontario. Its headquarters, as you probably know, is in Toronto.

The funding currently comes equally from the provincial government and the federal Department of Justice. At present, there are

26 court workers at some 18 centres. Apart from the native court workers, there are many other people who assist the program—the judiciary, other native organizations, law enforcement officials, correctional officials and a number of people who are involved in the criminal justice system. I think the Quakers also help out when they can.

Mrs. Campbell: They are still unhappy.

Hon. Mr. McMurtry: The total funds committed by the federal and Ontario governments—equal contributions—total $462,000 for 1978-79 and $508,000 for the current fiscal year.

Mr. Wildman: I'm sure all members of the committee would agree it is very important that we make it possible for native people to know what their rights are under the law. Many of those who may come into conflict with the law have little or no experience with court procedure. It is helpful to have someone who is used to working in that milieu to give them advice as to how they can best ensure they get a fair hearing.

Could you give me some information as to the training you are providing for these court workers? Who is providing it? How is that being done?

Hon. Mr. McMurtry: There is a course of training. I think Mr. Campbell can give you more of the details. The court worker program has been intensively evaluated. We have had meetings recently with respect to some of the native people involved in the Federation of Friendship Centres. We think the program has improved even within our current budget, but Mr. Campbell can tell you more than I can about the precise nature of the training.

Mr. A. Campbell: They have a number of training sessions and training centres. They have a fair bit of supervised on-the-job training. People in our ministry have participated. I think the last big one was about two years ago at Hart House, University of Toronto. They had a major training session and we spent a couple of days with them.

Training has been identified by the individual court workers as one of the things they want more of. The individual court workers also think they would like to expand the role—or some of them do—but they would like to expand the role into being paralegals, and to get into some of the areas that legal aid clinics are active in right now.

The Ontario Native Council on Justice is government-funded, but run by the native people. I know it is confusing because there are so many organizations in the field. It is presently conducting an intensive evaluation of the native court worker program and has issued a preliminary report. There was to have been a meeting this month, but this has been put over until some time in the new year. The council wants to see whether or not the native court workers should expand their role and get more into the area of giving summary advice and assistance of a paralegal type nature.

There are a couple of different ways of delivering the kinds of legal services for the special needs that native people have. There is a clinic under the legal aid regulation in Thunder Bay. It is not part of the native court worker program, which has had a few growing pains; but is a very interesting attempt to take the clinical way of delivering legal services and provide that in a uniquely tailored way to native people. I think the native court worker program is getting more and more interested in expanding the role into more of a legal than a strictly non-legal issue.

There are a few complications here because of the federal-provincial funding agreement. To change their role, we would have to change our agreement with the federal government, and the federal government is concerned not only with Ontario but also with the other provinces. All I can say is we are working very closely with them. We haven't taken a position, although we have indicated some concern about the dangers of getting into a paralegal role and the effect that might have on the unique position of the native court workers. But we haven't taken a stand.

Mr. Wildman: How do you mean "unique position"?

Mr. A. Campbell: The native court worker is usually regarded as a person who has a very independent and very highly respected status in most courts, because they have a degree of independence. I can provide you with a fair bit of documentation on this. They are not working for the accused, or counsel for the accused and they are not working for the crown.

Mr. Wildman: They are working for the court.

Mr. A. Campbell: Yes, they are. Because of that, they can often make bail arrangements. Say, you need a person out on bail, want to make a bail arrangement and advocate that particular bail arrangement without it getting into an adversarial system in any way between the crown and defence. If the native court workers change their role in specific instances from being sort of a friend of the court, walking a very difficult tightrope between the court, the defence and the

crown, into more of a role of an advocate for a particular accused, then they may have to sacrifice some of the merit of their position.

We've simply brought that to their attention. We haven't taken a position on it. We've had discussions with them about that.

Mr. Wildman: What about expanding the other way? I've had some brief correspondence and discussion with the native court worker in my area with regard to this and he is very concerned about it. He's always getting matters raised with him which are not necessarily judicial. They may have a relationship to the correctional system or they may have more to do in some cases with the police and those kinds of things. I've had some concerns raised with me about what avenue the native worker has in moving and following up concerns that are raised in those areas with him by people who are being held pending trial or whatever.

Mr. A. Campbell: This isn't a total answer to the concern. The Ministry of Correctional Services recently appointed a co-ordinator of native programs. They're putting more and more of an emphasis on special services to native people. I think they made the appointment within the last year, so I don't know if all the programs have really got moving at the grassroots level.

One of the difficulties with the role of a native court worker is he's the only person there in many cases in whom the native defendant can have any personal confidence. He doesn't have the culture gap he's got with an average defence counsel.

Therefore, the role of native court workers is particularly hard because they get all sorts of demands put on them which they want to meet in a human sense but which are not really part of their job description. That's one of the issues. I don't know what the answer is, but it's certainly one of the things the court workers are talking about and the federation is talking about. We're engaged in these discussions with them about that.

Mr. Wildman: I know discussions between the federal and provincial governments on native matters tends to be rather prolonged. When do you expect these discussions might reach fruition?

Mr. A. Campbell: We have a copy of the draft produced by the Ontario Native Council on Justice. I'm not sure of the date, but I think there was to be a session last month. Early in the new year there will be a big conference sponsored by the native council on justice, hopefully, with us, the feds and some of the court workers to get it all out on the table. That's not going to reach any final conclusions at that stage. I can't confidently predict with respect to what might happen down the line with the feds or how long that might take.

Mr. Wildman: I hope it doesn't take as long as your negotiations over the 1924 land agreement which are still going on.

Mrs. Campbell: And will be in 2000.

Mr. A. Campbell: It is an area where things always seem to take a way too long.

Hon. Mr. McMurtry: The new federal government, Mr. Wildman, is not likely to be inactive.

Mr. Wildman: May I ask what relationship you have in this program and what relation the workers may have under the Solicitor General with the native constables, the band constables operation, and, for that matter, with the Ministry of Culture and Recreation in what used to be called the Indian community secretariat? Is there any kind of co-operating role?

Mr. A. Campbell: They don't have any formal working relationships with them and there's no mutual supervision or anything. They're working for the court but really for the defendant. The band constable works for the band, and the interests of the band may be quite contrary to the interests of the defendant. The native community branch plays a degree of a co-ordinating role.

Mr. Wildman: They're involved with the friendship centres, aren't they?

Mr. A. Campbell: Yes, and they've been involved in some of the discussions on the court worker program.

Mr. Acting Chairman: I am sorry to interrupt, but we do have certain proceedings in the House. Private members' business will probably be coming to a vote. The clerk tells me we should adjourn now.

Mr. Wildman: Can I ask just one very short question?

Mr. Acting Chairman: A very short one.

Mr. Wildman: Can you tell me how many of your workers are native and how many of them speak either Ojibway or Cree?

Mr. A. Campbell: I think every one of the native court workers is a native person. The ones in Treaty 3 would speak Ojibway while the ones who work in the Treaty 8 area would speak one dialect or other of Cree, if it's accurate to call it a dialect.

Mr. Wildman: For instance, in my area you'd have a hard time finding a native person who could speak Ojibway.

Mr. A. Campbell: You're in Algoma?

Mr. Wildman: Yes.

Mr. Acting Chairman: We'll adjourn now until after the proceedings in the House tomorrow morning.

The committee adjourned at 5:45 p.m.

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Publications

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No. J-21

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Attorney General



Third Session, 31st Parliament
Friday, November 23, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 11:58 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL
(continued)

Mr. Chairman: When we adjourned, we adjourned on vote 1402, item 1. There are six hours and 29 minutes remaining.

I want to thank Mr. Stong, who I understand did a magnificent, Horatio-like job under extremely trying circumstances.

Mr. Stong: Under very trying circumstances.

Mr. Chairman: Much as I would have enjoyed the active debate, I think I probably did well by chickening out. I don't know.

Mrs. Campbell: Mr. Lupusella was in the chair, or was about to take over, and Mr. Stong had some questions.

Mr. Chairman: Mr. Stong indicated it to me, and I have him first on my list.

Mrs. Campbell: Good.

On vote 1402, administrative services program; item 1, main office:

Mr. Stong: Mr. Chairman, my questions arise out of the discussion we had yesterday and they pertain to interference in the judicial system. There are three aspects I would like to cover.

First off, as a result of discussing with the Attorney General the recent case raised in the House and discussed here, I had the opportunity to meet with Mr. McLeod and Mr. Takach from his office. I appreciate that. It brought to light a certain aspect that was lacking by virtue of the nature of the investigation and the nature of the event.

As a result of discussing this matter with representatives from your office, Mr. Attorney General, I am satisfied, from the evidence they presented, that your crown attorneys were on top of the situation and acted in the best interests of the judicial nature of the situation at the time.

I am also satisfied, having read the transcript of evidence, that the judge could not and cannot be faulted by virtue of the fact that he requested assistance three times on the transcript.

Mr. Attorney General, what really does concern me is the fact that we have two police forces of equal concurrent and competent jurisdiction, both of them involved in an investigation of an individual. I'm removing my consideration from the individual being investigated vis-à-vis his position in society.

I have another question in another area I would like to zero in on. That is, it is apparent to me—and I would like to get your reaction to this—that there was interference in that investigation, very grave interference. The interference did not come from your office. In fact, your officials tried to countermand that interference. However, in fact, there was interference.

The interference, as far as I can see, came from Canadian Pacific Hotels and the officials of Canadian Pacific Hotels, particularly in bringing tremendous pressure on one of their own police officers. That police officer, as I read the situation, was threatened to the extent that he would lose his job should he investigate further or cause further investigation.

That is the impression I have of this situation. I am wondering if you have the same impression and, if you do, do you not feel it is incumbent upon you to investigate the actions of CP Hotels in this matter?

Hon. Mr. McMurtry: First of all, Mr. Stong, I would like to say I am very pleased that you were able to have this meeting with Mr. McLeod and Mr. Takach—Mr. Takach is sitting beside me as we discuss this—and that you were able to satisfy yourself as to the conduct of the crown attorneys as to our ministry. As you know, this is very important to me. While, as a politician I expect criticism and, I suppose, frequent criticism, that type of criticism is very important to the foundation of our whole parliamentary democratic system—

Mr. Lupusella: Especially when it is constructive criticism.

Hon. Mr. McMurtry: —I was concerned, in relation to your concern, about the conduct of our crown attorneys in the ministry. These people are not in the same position to speak out on behalf of themselves, and I think you have always demonstrated a very responsible

attitude in dealing with these issues, knowing the sensitivity of their role in the system. I appreciate that and I want to make that clear for the record. They appreciate it too; that is why they were happy to meet with you to share some matters which, quite frankly, had to be kept in confidence for the right reasons.

What you have just told me about the activities of the CP Hotels people in bringing pressure on their investigator, I have to say, is not known to me. I don't know if Mr. Takach, who is here and who is more intimately familiar with the file than I am, has any such information. Mr. Takach?

Mr. Stong: Mr. Attorney General, I don't know if you are in receipt of a letter, but I am in receipt of a letter which I am prepared to give to you.

Hon. Mr. McMurtry: Yes?

Mr. Stong: It is dated October 18, and involves an individual who says he was involved in the investigation as an outsider. He indicates he is aware that pressure was brought to bear on Mr. Max Menko from his employer. That is the only information I have in this regard. But it does bear directly upon an interference with an investigation. I am just wondering if this thing can be investigated regarding pressure put upon Mr. Max Menko.

Hon. Mr. McMurtry: In view of the fact that this information has only now been brought to my attention, and I am grateful to you for bringing it to my attention, I would like to reflect on it over the weekend as to what should be done. Certain matters come to mind. I am not suggesting that doing nothing is an option, but over the weekend I would like to consider the other options, Mr. Stong. I am quite prepared to share this with you at the beginning of the week, as the estimates don't resume until Wednesday.

Mr. Stong: How do you perceive your role vis-à-vis Canadian Pacific, which is a federal company, and CP police, who, I assume, are answerable directly to the federal Parliament? I am not sure about that aspect of it.

Hon. Mr. McMurtry: They would probably come under the provisions of the Railway Act.

Mr. Stong: Yes. Do you have jurisdiction over them?

Hon. Mr. McMurtry: Not direct jurisdiction, but I can tell you perhaps what I view my responsibilities to be.

Mr. Stong: All right.

Hon. Mr. McMurtry: I don't think it matters much whether I am speaking at this time as Attorney General or Solicitor General.

Mr. Stong: No.

Mrs. Campbell: Or as a member of the Legislature.

Hon. Mr. McMurtry: The roles of the Attorney General and the Solicitor General must necessarily overlap in very significant ways, even when there are two separate individuals holding those responsibilities.

If there is evidence to believe a criminal offence has been committed, I would think that while CP has a role to play on behalf of the hotel, it is still within the jurisdiction of the Metropolitan Toronto Police Force, for example, in these circumstances. The fact that the hotel has its own police force does not in any way usurp the responsibility or the jurisdiction of the local police force.

If I am dissatisfied with an investigation that was carried on, and, perhaps to put it more clearly, if I think a criminal investigation is warranted, then I will make my views known to the local police force. They are not obliged to take any direct instructions from me. I think you are quite aware of that. All I can do in those circumstances is make my views known to them, because of my overall responsibility. In the normal course of events, it would be very surprising if they did not respond positively to my request, although they are not obliged by law to do so.

There is probably another option open. If there is not a response locally, it is still possible for me to bring in the Ontario Provincial Police to conduct an investigation, I would think. If as you have stated, or as regards to this information that has been brought to your attention, there is interference by CP Hotels in relation to their own employees with respect to an investigation, I cannot tell you off the top of my head if I have a role to play in that matter that is an internal matter. I don't know whether I do or not. I would like to reflect on that over the weekend.

I want to make it very clear that we are not dependent upon any private investigative staff or employees for any criminal investigation. I don't know what rights they have over and above the rights of the ordinary citizen, except to say I assume they are peace officers and described as such under the Railway Act, I believe. So they do have those additional rights.

But I will explore that avenue, because it certainly raises some interesting questions.

Mr. Stong: My concern, Mr. Attorney General, is basically that I am given to understand that two uniformed police officers of the Metropolitan Toronto Police attended at the scene. I am not faulting them for this,

because I believe they probably acted in the right way. They attended the scene, saw that it was under the control of Mr. Max Menko, who was an authorized peace officer of competent, equal and concurrent jurisdiction in the circumstances, and they left.

The Metropolitan Toronto Police, as far as I can determine, are not to be faulted in any way. But in this respect, it seems to me that where apparently they do have competent and concurrent jurisdiction in dealing with the investigation of charges under a federal statute, such as the Criminal Code, perhaps they ought to be more answerable to you and perhaps that is something that should be investigated. If this information is correct, maybe you would see fit to act on it.

Hon. Mr. McMurtry: I certainly intend to act on it. As I indicated a few moments ago, the option to do nothing, in my view, is not an option. I want to make that clear to you. I should be careful about giving an off-the-cuff reaction, but at the very least I think I would draw your concerns to the attention of the federal minister who has jurisdiction.

Mr. Stong: Yes. I suspect that. I am just wondering if there is any arrangement between you and the federal minister in a case such as this. Obviously, if this is factual, there has been a miscarriage of justice; there has been a direct interference in the course of justice.

Hon. Mr. McMurtry: Yes. It is obviously not clearly established in law because, as we know, one of the issues that the McDonald Commission is attempting to resolve is what precisely is the relationship between a federal minister and the federal police force.

I can say this, when you are talking about a purported offence that takes place in an hotel, I think when you describe it as concurrent jurisdiction in so far as the railway police and the Metro police are concerned, you are probably right. It is concurrent jurisdiction.

If you are correct that the Metro police are satisfied that it has been properly looked after by the railway police, and the railway police did not act properly for whatever the reason might be, then there has to be some accountability. Short of the commission of a criminal offence themselves—because if that behaviour amounted to a criminal offence, then it would be squarely within our jurisdiction—if the conduct amounted to something less than a criminal offence but was still within the general category of an impropriety in relation to their responsibilities, then they would undoubtedly be accountable to the federal minister through the federal legislation.

Obviously, as a provincial minister with respect to law enforcement in the province, it would be incumbent upon me to insist that that accountability was acted upon.

Mr. Stong: All right; I am satisfied. I will provide you with the information, and I am satisfied you will report back to us the results of your investigation in this matter.

Mr. Warner: When the Attorney General is doing that, one aspect he might check into, if what Mr. Stong raises is accurate, is whether the gentleman involved had filed a grievance with his union over having his job threatened. My understanding is that gentleman is a steward; so he would be well aware of the grievances procedures open to him. It might be helpful. I could be inaccurate in that information, but I am just suggesting that in trying to get all the facts in front of you to determine what occurred, you might check the aspect of whether he filed a grievance over the issue or any other form of complaint with anyone regarding the alleged pressure put on him by his employer.

[12:15]

Hon. Mr. McMurtry: I appreciate that suggestion. We're interested in finding out just what did happen, and any avenue that should be pursued in order for us to find out what happened will be of assistance.

Mr. Stong: The next issue arises out of your answer yesterday with respect to justices of the peace and their functions as judicial officers. Obviously you have given recognition to the fact that a justice of the peace does perform a judicial duty.

You're in good company in that opinion. I have a partial copy of a legal memorandum prepared by J. J. Robinette for the justices of the peace, and that's his opinion as well. The Ontario Court of Appeal of 1974, Messrs. Justices Gale, Arnup and Kelly, found that justices of the peace were called upon to perform judicial functions in determining whether there's a case made out and whether to issue a summons or a warrant. They regarded that as a judicial function.

I'm concerned, with respect, about the position of the justice of the peace vis-à-vis your ministry and, probably more appropriately, about three matters.

The first one arose in 1975. I have a copy of a letter from your office of January 21, 1975. You weren't the minister at that time, but it is from the Ministry of the Attorney General. It's a directive to justices of the peace emanating from the crown attorneys office with respect to charges of assault occasioning bodily harm. It's basically a directive.

I recognize that the law has changed since then and assault occasioning bodily harm is no longer only indictable. The crown attorney now can elect at the time of trial to proceed by way of summary conviction. Obviously there were a lot of trials going to county court from provincial court and the crown attorney was determined to cut that case load down.

In doing that the crown attorney's office took upon itself to give a directive to the justices of the peace, by way of memorandum, indicating it was only in severe cases of assault that the crown attorney wanted the charge of assault occasioning bodily harm laid. The directive was to the justices of the peace to lay only common assault charges so that the defendant could not have the option of choosing to be tried by a court composed of a judge and jury or a court composed only of a county court judge sitting alone, as opposed to a provincial court judge.

That's rather alarming in itself—that there should be that interference with the judicial process. The justice of the peace is sitting there determining whether the facts before him warrant the laying of a charge of assault occasioning bodily harm, and in my respectful submission it was direct interference from your office. However, I recognize it was when you had no control.

Again, in September 1973, there's a memorandum with respect to laying charges, emanating from your office to the justices of the peace.

Hon. Mr. McMurtry: What was that date again?

Mr. Stong: September 3, 1975; it was before the election of 1975. It deals with a directive that can be construed as indicating the crown attorneys, because of the expense involved, were becoming alarmed at the fact that citizens were laying frivolous charges against police officers.

Again, the tenor of the memorandum can be read as interference with the judicial process of the justice of the peace in determining initially whether there is sufficient evidence to warrant the laying of a charge—against a police officer in that case.

On May 17, 1979, there is a memo from Chief Judge Hayes dealing with bail justices of the peace of the Metropolitan Toronto jail. He said he had received a letter from Mr. McGee, deputy crown attorney, who advises that in respect of bail matters concerning charges prosecuted by his office, the crown will wish to approve the surety where the amount of bail is $5,000 or more. I must admit this directive is not quite as evident as the previous two I referred to, but it has been decided by the justices of the peace to hire Mr. J. J. Robinette to come up with a legal opinion which I understand has been forwarded to you. They feel there's potential for gross interference in the judicial process in their situation.

Part of the fear arises out of the fact there is no security of tenure for justices of the peace. They are there at the whim of the Lieutenant Governor in Council, which is basically order in council, in accordance with Mr. Robinette's opinion. They seek to meet with you, I understand, on these issues: (1) to prevent any interference in their judicial process by virtue of memorandum or otherwise; and (2) to obtain some kind of security of tenure for their position vis-à-vis their role in an independent judiciary. They are very concerned about that.

Mr. Robinette says: "The crown may terminate the employment of a servant or officer at any time without notice and whether for cause or not. In the absence of some statutory provision, it follows that the commission of a justice of the peace may be revoked by the Lieutenant Governor in Council at its pleasure. I can find no statutory provision which abolishes or restricts this power in the case of justices of the peace. In short, it seems to me at the moment that the justices of the peace really do not enjoy any security of tenure."

This is unlike justices of the Supreme Court and county court judges who have tenure until they're 75 years of age—or they have a hearing before they can be dismissed. Justices of the peace do not enjoy that security of tenure. They are threatened and they seek to have the situation remedied. I'll just leave it there for comment at this time. I also want to get into provincial judges on this same issue. But I'm now dealing with justices of the peace.

Hon. Mr. McMurtry: If you have copies of the two directives that you described—

Mr. Stong: Yes.

Hon. Mr. McMurtry: —to the JPs which were sent out by the crown attorneys prior to the commencement of my tenure, I'd be happy to look at those. If we could have a copy of Mr. Robinette's letter as well it would be helpful.

The term "directive" certainly does cause me some concern because of what I've said about the independence of that office. The JPs are in a somewhat different category than a provincial court judge, for example, in relation to the crown attorneys by our provincial legislation. I refer to the Crown

Attorneys Act, section 12(h), where it states: "The crown attorney shall aid in the local administration of justice and perform the duties that are assigned to crown attorneys under the laws in force in Ontario, and without restricting the generality of the foregoing, every crown attorney shall"—there are a number of duties, and (h) is the relevant one—"advise justices of the peace with respect to offences against the laws in force in Ontario." They have a statutory responsibility in that regard. That, in my view, does not give the crown attorneys the right to direct the JPs, as opposed to advise.

I do have some recollection of those memoranda, because I recall there was some concern expressed at the time. To some, the dividing line between "advise" and what some people might interpret as a directive is not always clear as a practical matter. I appreciate that, but I want to make it very clear that in my view the role of the crown attorney is to advise and not to direct. I agree entirely.

The crown attorney does have the right to bring concerns, as my agent, to the chief judge of the provincial court, who is responsible for the administration of the JPs. I believe there is some judicial authority to support—and I'll try to get this for you—the role of the crown attorney in relation to approving sureties, as you mentioned, in excess of $5,000. I think there's some judicial authority for that as part of their overall duties in relation to the administration of justice in the local area.

As regards the security of tenure issue—and I think this is important to note—there is a JPs' review council; it's under the Justices of the Peace Act, and it's made up of Chief Judge Hayes, Associate Chief Judge Rice and the chief judge of the provincial family court, Chief Judge Andrews. The statement I know some JPs make, that they don't have any security of tenure, really is not accurate. Although their security of tenure admittedly is not as great as that of a provincial court judge, they do have security of tenure by reason of this JP review council. The act was amended in 1973 by providing for this review council.

The functions of the justices of the peace review council are "to review the conduct of and performance of duties by justices of the peace in the county or district, to receive complaints respecting the misbehaviour of or neglect of duty by a justice of the peace in the county or district or the inability to perform their duties, and to take to such action to investigate complaints as the council considers advisable," et cetera.

They do have the security of tenure. For example, we have, unfortunately in Metro Toronto and the judicial district of York—as I think you know—a rather sad situation where several JPs have been charged with criminal offences. You will appreciate our sensitivity in the ministry in relation to these matters. What happens with respect to the JPs that are faced with that situation is not a decision that is made by us but a decision that is made by the JPs' review council.

For example, the new section 9(4) states "where an investigation of a complaint is undertaken, the chief judge of the provincial courts, criminal, or the chief judge of the provincial courts, family, may suspend the justice of the peace from the performance of his duties until the Attorney General otherwise directs." They advise the Attorney General and they do have power under part II of the Public Inquiries Act in relation to investigation.

While it's true that the Lieutenant Governor, by Order in Council, may revoke an appointment of a JP, to my knowledge, certainly since the introduction of this legislation, no appointment has been revoked or altered except on the recommendation of the judicial review council.

[12:30]

Mr. Stong: Perhaps in order to allay the fears of the JPs, as I appreciate the problem, it's been determined by our own Court of Appeal that they act judicially, even in the sense of issuing a summons.

Hon. Mr. McMurtry: No question about that.

Mr. Stong: It's more important, in my respectful submission to you, that they have to make a determination on facts that are brought before them. As I understand the situation, they feel pressured somewhat by virtue of the fact that they could be subject to pressure from the police themselves, and from the crown attorneys on the other hand. They perceive that to be a direct interference with the judicial process.

They would like to be free from that, by being guaranteed a tenure of office such as is guaranteed by the superior courts and—let me just read this: "By virtue of section 99 of the British North America Act, judges of the superior courts hold office during good behaviour and can be removed only by the Governor General on address of both the Senate and the House of Commons." They hold office until they attain the age of 75.

We're not asking to go that far. County court judges are guaranteed tenure during good behaviour by section 32 of the Judges

Act, which is also a statute of Canada, and they can only be removed by order in council after a hearing.

Hon. Mr. McMurtry: Provincial court judges have—

Mr. Stong: Yes, that's right; and provincial court judges. The justice of the peace who is called upon initially to make a judicial determination does not enjoy that same independence, and he feels he's being interfered with. He would like to have it recognized in legislation by the legislative branch of the government that he enjoys an independent judicial function and that it will be protected in legislation, and not be perceived and not be open to a simple order in council approved by the Lieutenant Governor in Council. I'm just wondering if you would consider granting them in legislation that guarantee of independence that now is perceived to be lacking.

I recognize there are steps. I know that. You've read them to me, but it does not—

Hon. Mr. McMurtry: I appreciate the legislation that does provide for the JPs' review council; while I think that is a considerable improvement over the situation that existed prior to that, it has not satisfied the JPs. I'm aware of that. I'm aware of briefs they have presented, and this is being currently reviewed.

Mr. Stong: Do you perceive them to be any different in the judicial structure vis-à-vis their judicial function?

Hon. Mr. McMurtry: There are different classes of JPs, as you know, for one thing. There are a number of differences. Again, I recognize they are judicial officers. There are a number of administrative duties that certain JPs carry out, and a great majority of them do not sit and conduct trials. All these factors have to be taken into consideration.

There's the special relationship between the crown attorney and the JP, who is not a legal officer inasmuch as he has not received legal training. We don't appoint provincial court judges, county court judges or Supreme Court judges who are not lawyers. We used to appoint provincial court judges. Justices of the peace are not lawyers; therefore, at this point there is the responsibility of the crown attorney to advise JPs with respect to offences. This of course is done to protect the individual citizen from the issuing of process that might simply be an abuse of the process; as you know from your own practice and experience, Mr. Stong, there are many people attending before JPs every day of the week, who seek to have process issued for purely vindictive and malicious reasons.

There are obviously issues of law that require the JP to seek some advice. I think that's as it should be, in order to protect the individual citizen from a process being issued improperly, because obviously they've been summoned to court to answer a criminal charge. It's a very serious interference of certain individuals.

All these factors we are taking into consideration, and all I can tell you at present is that we're reviewing it very carefully to determine what would be appropriate and what would satisfy our JPs in giving them the protection they seek. I just can't tell you at this moment what the decision will be. We're very aware of their concerns in that regard, and they are represented by counsel other than Mr. Robinette—by Mr. Morris Manning, who has met with the Deputy Attorney General recently to discuss this matter. As I say, we will hope to have some decision in the not-too-distant future.

Mr. Stong: Just using your own argument that you have given here—

Hon. Mr. McMurtry: I wouldn't put it forward as an argument—more as an observation with respect to the dimensions of the situation.

Mr. Stong: All right; your own statement, or your own observations. I know you are committed to an independent judiciary and to the preservation of an independent judiciary. We recognize the fact that justices of the peace are called upon to perform judicial functions.

Do you not think, keeping in mind that we want to preserve the independent judiciary, that it is better to guarantee the independence of that judiciary by affording that to justices of the peace, whether they are satisfied or not? The question really is, are we satisfied as legislators to protect that branch of government from any interference from us, or from any of our officers or subordinates?

Hon. Mr. McMurtry: I am certainly committed to the principle of protecting the JPs from any improper interference, or the appearance of improper interference—

Mrs. Campbell: By anybody.

Hon. Mr. McMurtry: I assume that means by anybody. This is what we are pursuing. Again, one has to balance the necessity to maintain that independence, or to create a greater independence where it's appropriate, with some degree of accountability to the administration of justice. That, of course, is the age-old challenge in relation to the whole administration of justice. I'm not

stating on the record that they should not have the same protection as provincial court judges. I'm not rejecting that proposal. I am simply stating that we're reviewing it very carefully. I'm just not in a position to commit myself at this point in time; that's all.

Mr. Stong: Can you give us any idea why you wouldn't commit yourself?

Hon. Mr. McMurtry: There are a number of issues I want to look at, and I'm not in a position to enumerate them all. I'm again responding off the top of my head, as it were. There may be matters that will occur to me before the estimates are over that I would like to bring to your attention. But I've given you my off-the-cuff response.

Mr. Stong: Do you have the matter under current study?

Hon. Mr. McMurtry: Yes.

Mr. Stong: When do you anticipate the current study will result in something fruitful?

Hon. Mr. McMurtry: I think it's fair to say that, certainly prior to the commencement of the next sitting of the House, we will have made a decision as to whether or not to introduce legislation. So we are not talking about a long period of time.

Mr. Stong: We're talking about spring.

Hon. Mr. McMurtry: Yes.

Mr. Stong: Did somebody else have a question? I have another.

Mr. Acting Chairman: Mr. Renwick is next, and the speaker says that you are through, Mr. Stong.

Mr. Stong: Let somebody in on a supplementary on that, because I'd like to get into provincial judges on the same thing I indicated.

Mr. Renwick: I'm interested in the Attorney General's comments to Mr. Stong on that issue. I'm just trying to clarify them in my mind. You were saying, as I take it, that the justice of the peace, because of his lack of training and experience, consults the crown attorney with respect to what course of action he proposes. That was a response to Mr. Stong's question with respect to the security of tenure question. If there is a connection—

Hon. Mr. McMurtry: I'm not going to debate this with you, because that's not at all what I said, Mr. Renwick. What I said is on the record.

Mr. Renwick: Would you please repeat to me what you did say, then? I have no desire to get into an argument with you, but I want to try to understand the position you were putting; so if I put it to you incorrectly, please put it correctly.

Hon. Mr. McMurtry: I was indicating there was a relationship between the crown attorney and the JP that obviously was different from that between the crown attorney and any other judge, provincially or federally appointed, because of the crown attorney's duties under section 12 of the Crown Attorneys Act. I did not state that was in any way related to the issue of security of tenure, and I don't see it as related to the issue of security of tenure in my mind.

Mr. Renwick: No. Mr. Stong was asking about the security of tenure—

Hon. Mr. McMurtry: He was asking about crown attorneys. He asked several questions, Mr. Renwick. I don't know whether you were here or not to hear his questions, but he was very—

Mr. Renwick: If there was no connection between the two points, then I was obviously not here when he made the point.

Hon. Mr. McMurtry: Mr. Stong expressed some concern in relation to what he described as directives from the crown attorneys in January and September of 1975. I said to Mr. Stong, if they were in the nature of directives they would cause me concern, because there obviously should be a distinction between advising a JP and directing a JP. I'm sorry if the two issues got intermingled.

Mr. Renwick: So you haven't given any response other than you have it under advisement with respect to the question to security of tenure.

Hon. Mr. McMurtry: I was outlining the provisions in the Justices of the Peace Act that were introduced in 1973—you would be familiar with those—to provide a justices of the peace review council so as to provide a degree of independence the JPs did not formerly enjoy.

The issue is, what more can be done to protect the independence of the JPs in the process? I wanted to make it very clear that I was not taking the position that more should not be done and that more would not be done. The deputy attorney general has had a couple of meetings with Mr. Manning in the last couple of months on this issue.

I haven't had an opportunity to be brought up to date by the deputy attorney general in relation to knowing what his recommendations might be. He will be with us before the estimates have concluded. I just want to make it clear that I realize it's an issue of serious concern to the JPs, and I hope our response will satisfy them.

I just can't be specific at the moment, as to the details of that response.

[12:45]

Mr. Renwick: I recognize that. My concern is that it is a matter not just of concern to the JPs—

Hon. Mr. McMurtry: It's of concern to everybody.

Mr. Renwick: —but also of immense concern within a riding such as mine where disputes between citizens may result in a desire to lay a charge. That is the point at which the ordinary citizen in those situations comes into contact with the system—at room number six in the old city hall—and that's a crucial decision made by the justice of the peace. Anything that will enhance the status of the JP is most welcome.

Hon. Mr. McMurtry: I agree that it is of crucial importance to the average citizen.

Mrs. Campbell: In the course of his response the Attorney General pointed out there were virtually different classes. That's what you could call it. I'm not sure of the phrase the Attorney General used.

Hon. Mr. McMurtry: They're called directions. You see, the directions come from the provincial court judge. I think it's the senior judge in any particular area. So their jurisdiction is really controlled by the provincial court judiciary as to the nature of the directions they receive, and there are different forms of direction.

Mrs. Campbell: Perhaps that's where I'm confused, because I've lost something in the translation and I can't document the time at which you were discussing the JPs and the limited jurisdiction, which I understood your ministry was moving to correct. Perhaps I'm lost in between.

At one stage, and certainly not too long ago, you had the JP with general jurisdiction. I'm thinking of an area such as Pefferlaw, as a precise area. There was a JP there who covered an entire area. Then there was a JP who had very limited jurisdiction. We discussed that, I don't know whether Mr. Campbell would remember; I can't document the date—but my understanding was that was the kind of classification you were moving to eliminate. Am I wrong?

Mr. A. Campbell: It wasn't an elimination of the D category of direction. The Justices of the Peace Act provides that a justice of the peace will act under the direction of the chief judge.

There are four directions. The top one is A and it goes down to D. The A direction can do anything.

Mrs. Campbell: That's right.

Mr. A. Campbell: The D direction can—I don't even know if they can swear informations; they certainly cannot issue search warrants.

Mrs. Campbell: They can swear informations.

Mr. A. Campbell: They can swear informations. I don't know what level of process they can issue. I'm sorry I don't have the outline of the duties right here, but it ranges down.

Under the discussion to which you may be referring was the proceedings that dealt with the Provincial Offences Act. In that we were outlining the various kinds of training programs we were undertaking and are in the course of conducting for the various categories of justices of the peace.

Mrs. Campbell: This was before the Provincial Offences Act and, as I understood it, it was a matter of classification—or maybe of declassification; I don't recall. It was a geographic jurisdictional situation, rather than a powers jurisdictional situation.

Mr. A. Campbell: Yes.

Mrs. Campbell: In other words, that's the thing I thought you were moving to eliminate.

Mr. A. Campbell: I'm sorry. The difficulty is that at one time, many years ago—and there are still a few of them around—justices of the peace occasionally were appointed, not for Ontario, but for a particular judicial district. That occasionally caused jurisdictional problems on the basis that if a justice of the peace with limited territorial jurisdiction subpoenaed a witness who happened to live in another county, then you'd have terrible problems.

In the last five years, I don't think there have been any geographically limited appointments of JPs—certainly not that class of JPs who can issue process. As I understand it, any JP who can issue process, or anything that could conceivably affect a witness or a defendant or somebody in another county, has a province-wide jurisdiction. So the limited geographical jurisdictions of JPs who issue process has been abolished, at least for future appointments.

There may still be a few around, but they would probably be older gentlemen who have a limited territorial jurisdiction, and they would be very few now. Almost all the ones who have the A direction, if not every one of them, have a province-wide territorial jurisdiction.

You are correct; we did move to eliminate the restricted territorial jurisdictions that had previously obtained with JPs.

Mrs. Campbell: But there are still some.

Mr. A. Campbell: I think there are still some. I can check for you.

The problem that used to come up occasionally was that if the jurat of the information said "justice of the peace in and for . . ." and somebody typed in the name of the county instead of the name of the province, there would be arguments. I certainly recall arguments in court as to whether we could rely on judicial notice of the terms of the order in council appointing them for the entire province. There are only very few now who have that. I can certainly check and let you know.

Mrs. Campbell: It came up in a small town where the two lived across the street from one another. One of them was ill and the police could not use the other one except in a very limited way; they had to go miles to find a justice of the peace who was provincially appointed. This one was sitting there and they couldn't use his services because they were outside his territorial jurisdiction.

Mr. A. Campbell: That would be extremely unlikely to happen now. The only problem that could arise now in that situation would be if somebody wanted a search warrant and there was only a justice of the peace with a D direction there. The territorial problems are almost at an end. Mr. McLoughlin just advised me that a number of the JPs who had limited jurisdiction territorially were reappointed for the entire province. So we have started to appoint them for the entire province, and some of the old ones have been reappointed to extend their territorial jurisdiction.

Mrs. Campbell: Thank you.

Mr. Stong: Mr. Chairman, some time ago in the House, I asked the—

Mr. Chairman: I believe there is a supplementary from Mr. Warner.

Mr. Stong: Sorry.

Mr. Warner: Mr. Stong raised an important item, and he apparently had been working on this. Some people had been studying the situation. I wanted to clarify whether you had mentioned you anticipated the possibility of introducing legislation in the spring some time.

Hon. Mr. McMurtry: Yes.

Mr. Warner: Should I understand that, whether or not we have legislation, you would be presenting us with some kind of summary or report of the work that has been done as well as with a recommendation?

Hon. Mr. McMurtry: At the time we obviously are going to be responding to the justice of the peace association, or through their counsel, and we will certainly be prepared to share that response with you.

Mr. Warner: Okay. Maybe I've misunderstood somewhere along the line. My perception is that the Attorney General's department is very busy, regularly and routinely, in reviewing a variety of matters. That's the way it should be; that's terrific. I take it they are not satisfied with the status quo; so they take a look at these things.

Mrs. Campbell: The old order changeth—slowly.

Mr. Warner: What I would like to know is the result of all that study and review and work. I can best do that when I'm given some sort of summary which may involve recommendations as well. This summary might state, "We've studied it and we don't want to make any changes," or "We've studied it and here are the changes we want to make." But there should be some way of knowing what material was reviewed, what actions were considered and what the result of all that is. I'd very much like to see that, both on the matter that Mr. Stong raised and in the other items that have been raised through the estimates as well. Rather, I sit back and wait for some kind of announcement about legislation. I'm not comfortable with that.

Hon. Mr. McMurtry: Obviously we will be responding to the justices of the peace. They have counsel, and we will share that response with you. That would certainly be a question you would be perfectly entitled to ask in the House, and that would probably come before any legislation.

As you know, the introduction of legislation is a sensitive issue, because it is not my view that prevails, it is what cabinet decides. My cabinet colleagues are obviously concerned about the Attorney General committing the government to any legislation before they have had an opportunity of considering the proposals, just as you are concerned about committing yourself to any course of action on behalf of your caucus.

This whole process in relation to legislation is a difficult one. Things got a little heated yesterday, and it was a little difficult to discuss it in an unemotional way. Under a cabinet system of government, to submit proposals to a special committee before they are even submitted to cabinet, really undermines the whole question of cabinet accountability.

Mr. Warner: I think I understand that.

Mrs. Campbell: Except when you submit proposals to the public.

Hon. Mr. McMurtry: No. I think perhaps here we are beginning to lose sight of that fact, because the idea was developing here that we should share this proposal with you before we share it with our own cabinet.

Mr. Warner: No, I never suggested that.

Hon. Mr. McMurtry: No, but that was my impression—and I am glad that I was mistaken.

Mr. Chairman: No. His point was that since you share it with the public and press, you might share it with us as well.

Hon. Mr. McMurtry: I even went much further. I thought I went some distance yesterday in saying that I offered to have one of my senior advisers meet to discuss the general issues without, as I say, being specific about their proposals because it hasn't gone to cabinet yet. I seemed to meet with a certain degree of unhappiness here because I was not prepared to share the proposals with you people before I shared them with cabinet.

I know it wasn't put in those terms, but that's the way I interpreted them as a practical matter, because when you are working up a proposal for legislation there are many changes along the way before it gets to cabinet.

Mr. Warner: I understand that. I'm sorry, Mr. Chairman, if there was any misunderstanding about what I was asking for. I simply wanted a commitment that we were going to see legislation before Christmas. I was just following on the Attorney General's public statements of which I was aware. I understand the cabinet system, that you've got to take it and get cabinet approval. I was hoping the whole system would work its way through before Christmas.

Hon. Mr. McMurtry: I perhaps didn't explain this very well yesterday. I said publicly that I intend to introduce legislation—and I went much further than a cabinet minister usually goes, particularly when the cabinet hasn't had a chance to consider it. But, given the emotional atmosphere, not to respond positively to the request of Metro council would not have been very helpful. I see nothing different from what I said then. I intend to introduce the legislation, but I can't bind my cabinet colleagues. I guess that's what I didn't make clear. My cabinet colleagues can't say to you, or can't delegate me to say, "You can guarantee the Legislature that you'll introduce legislation before we even see it." That's the problem.

Mr. Warner: I understand that.

Mrs. Campbell: Just before you conclude, I think it was more my suggestion than yours that bothered the Attorney General; I didn't realize he was bothered by that suggestion.

My suggestion was simply, if he had draft legislation or something he was sharing with the police and with members of the public—

Hon. Mr. McMurtry: We weren't sharing draft legislation.

Mrs. Campbell: Whatever you were sharing with them, I felt it would be useful to come to us, just for us to know where we are going. I would never suggest that you would bring something to us before it had cabinet approval. But if you can take something to the police and the public before cabinet approval, then it seemed to me it was logical that you could bring it to us so we could know where you were going or where your mind was directed—not that it would be binding; I'd like to make that clear, because that was not my intent.

Mr. Warner: In fairness to myself and others, I'd like to make it very clear. The Attorney General mentioned about us meeting with Mr. Linden, and I guess he was of the opinion that people were somehow opposed to that. If the Attorney General would like us to meet with Mr. Linden, I would be more than pleased to do so.

Mrs. Campbell: And I.

Mr. Warner: I think my colleague from St. George and the other members would like to do so as well.

Mrs. Campbell: Perhaps that should be arranged.

Mr. Chairman: Through the Attorney General's office and the two critics.

The committee adjourned at 1:01 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Attorney General

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Third Session, 31st Parliament
Wednesday, November 28, 1979
Morning Sitting

Speaker: Honourable John E. Stokes
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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 10:03 a.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL
(continued)

On vote 1402, administrative services program; item 1, main office:

Mr. Acting Chairman: Order. Vote 1402. We're still on item 1, main office.

Mrs. Campbell: Mr. Chairman, I wonder, as a preliminary matter. I had a discussion with the Attorney General with reference to an editorial in the Globe and Mail, last Friday I believe. It was a matter my colleague intended to address. The Attorney General says he's not caught by surprise and would make a statement to clarify the question of the Attorney General of Ontario on the matter of a caution to be administered at the time of an arrest or apprehension.

The Globe and Mail article indicated to me —and I hope the Attorney General will correct me if I'm wrong—the federal Minister of Justice was not prepared to incorporate in the law the provision for a formal caution. It stated in the article—and I'm not quoting it because I didn't bring it with me—his position was the correct view supported by, and I think he said the Attorneys General, but he may have said some of them, in that it might clog up the courts or the procedures. That was the essence of it, I think the Attorney General agrees with me, having read it, that that is the position.

I felt it was rather important our Attorney General be on the record as to his position and that of this government and Mr. McMurtry said he was prepared to make a statement for the record.

Hon. Mr. McMurtry: I don't recall the precise details of the Globe and Mail article although it did indicate the federal Minister of Justice had stated they were not proceeding with the amendments to the Criminal Code in this area because of the lack of support of such amendments from the provincial Attorneys General.

I just wanted to put in the record the subject came up at the last federal-provincial meeting of the ministers of justice.

I don't think it had been on the agenda, but it was discussed and the majority of the ministers of justice, provincial Attorneys General, simply wanted to have the matter done properly and therefore referred to the next meeting of the uniform law commissioners for proper deliberation. These uniform law commission meetings, for example, in so far as the province of Ontario is concerned, are represented by the Deputy Attorney General and senior law officers of the crown. We always bring in our delegation of at least one senior member of the practising bar and the defence bar in order that the defence bar be represented in its views in such discussions. This will be done at the meeting next summer in a manner where every province will have an opportunity to review the matter in the appropriate fashion so the input will be done as well as possible.

I think it's important we clarify it wasn't the desire of the provincial Attorneys General not to move in this direction, but to see it was done properly. I appreciate Mrs. Campbell giving me the opportunity to put that on the record, Mr. Chairman.

Mr. Warner: Mrs. Campbell, did you have a further question on that?

Mrs. Campbell: No. I knew it was something my colleague would have raised last Friday but didn't have a chance to do so.

Mr. Warner: One matter troubling me I raised a couple of weeks ago is the question of former detective Mr. Roy Wood from Peel, and him being returned here for trial. I haven't had any updated information on that since the time I asked the question in the House as to when he will be brought back for trial and what charges—

Hon. Mr. McMurtry: I've just been brought up to date in this matter myself. I gather the extradition proceedings are still pending. The formal hearing date has not yet been set. This usually takes some time. As you know there has to be a formal hearing in another jurisdiction and this is done through the federal government which retains counsel, and in this case it's in Great Britain.

There is another matter raised by Mr. Warner in relation to the same Mr. Wood. This matter has been investigated. The in-

vestigation is continuing. I think there have been some meetings with the complainant in the Wood case and some of the complainant's concerns, the principal concerns, have been satisfied. But when this matter is completed we will be back to Mr. Warner, in view of some of the confidential information you passed on.

Mr. Warner: Perhaps you could clear up something for me. You require a formal hearing for extradition even though it involves a Commonwealth country?

Hon. Mr. McMurtry: Yes. Oh yes.

Mr. Warner: And you are satisfied Mr. Wood is still residing in Great Britain?

Hon. Mr. McMurtry: That's our information, yes.

Mr. Warner: You know his exact location?

Hon. Mr. McMurtry: As far as I know. I don't know if Mr. Takach can assist us with these details. We'll advise you, Mr. Warner, if we have any different information but our information is that his whereabouts are known and he has not attempted to leave the jurisdiction. But we'll try and be brought up to date on that and advise you accordingly.

Mr. Warner: How long should this take? It's been some time now. Is it normal for the hearings to drag on like this?

Hon. Mr. McMurtry: Oh, yes. I mean it's a very important step in the criminal process. It's not done except on a very formal basis and like any other matter of some substance in the criminal courts, the crown must be represented. The accused must be represented by counsel. There are hearing dates to be set. It's a very important hearing and I know you are aware of extradition hearings that have gone on for months. For example, the US or a state in the US, is trying to extradite someone who may be in Ontario and there have been celebrated extradition proceedings in this jurisdiction that have gone over a fairly extensive period of time because of the importance of the procedure as far as the accused is concerned.

Mr. Warner: Okay. I would certainly appreciate it that if there are any further developments in this situation, you let me know.

I expressed my views in the House and I haven't changed it. I believe firmly Mr. Wood should be brought back to face whatever charges are to be laid against him—for a variety of reasons, but particularly because we do place a great deal of public trust in our law enforcement agencies. Whenever that trust is broken or appears to be broken then it's extremely important we have the proper process of law involved—

Hon. Mr. McMurtry: I agree.

Mr. Warner: —not just simply say, "If you want to leave the country, that's fine," and that's the end of it. That's very unsatisfactory to me.

Hon. Mr. McMurtry: Nobody has suggested that would happen. We agree a police officer alleged to have committed a serious criminal offence, because he is or was a police officer in my view makes the matter that much more serious. I certainly agree with your sentiments in that respect.

Mr. Warner: Thank you very much.

Mr. Acting Chairman: Shall item 1 carry?

Mr. Warner: No. Item 1. This is vote 1402.

Mr. Acting Chairman: Vote 1402, item 1.

Mr. Warner: Under that is the legal aid fund. I've quite a few questions. I mentioned earlier I have an interest in knowing what your long-range goals and plans are for the legal aid plan. Are you satisfied with the status quo, as the legal aid plan exists now? Do you have further plans? I don't wish to be entirely parochial but do you have some idea as to how we in Scarborough could better benefit from the legal aid plan or other communities in Ontario?

I'd like to start at that point.

Hon. Mr. McMurtry: It appears from your comments, Mr. Warner, part of the aspect you appear to be most interested in is the effectiveness of the delivery of service to the average citizen, which of necessity involves the expansion of the community clinic concept.

[10:15]

I'd like to see the community clinic concept continue to develop and expand. If I may indulge in a little bit of history to put this whole thing in its proper perspective and the appropriate context, when I became Attorney General, just over four years ago, the community clinics that existed were in very bad financial shape. Most of them had grown up as a result of the federal LIP program and when the funding ceased federally they were in very bad financial shape.

The amount of money that was expended by the law society, which administers the plan as far as clinics were concerned, was very little. I can't be precise as to how many legal aid clinics there were at that time and there were only a handful—they were all in the process of going under.

I take some satisfaction from the fact that notwithstanding government's restraint program, we were able, through the co-operation

of the law society, to place these clinics on a solid financial basis for the first time. As a result, the number of clinics has expanded dramatically over the past four years; still not as many as I'd like to see, but the increase has been quite dramatic. Funding over the same period of time has—I'm not sure whether it's quadrupled but it has increased considerably.

As you know, there have been a number of initiatives. I originally arranged for some regulation to be passed to put the clinics on a solid financial basis for the first time. That was sort of an interim measure to salvage what I considered a very important aspect of legal aid.

Then there was some controversy over the criteria to be applied in relation to funding legal aid clinics. As a result of this I appointed Mr. Justice Samuel Grange of the Supreme Court of Ontario, a one-man commission, to look into the legal aid clinical funding and he brought down a very excellent report. It was supported by virtually everyone who was interested in this concept.

As a result of his report certain changes were made. Criteria were established in relation to funding. There's a committee of the law society on which the Attorney General is represented, which receives applications; they are processed. I have figures from 1975, when I became the Attorney General. The funding for legal aid clinics then was $700,000 and for the current fiscal year it's $3.6 million. So we're talking about a fivefold increase and again I'd like to see significant increases in those amounts. But considering the period we live in, a fivefold increase for legal aid clinics represents reasonable progress at least.

I think most people who are involved in the clinic program do recognize my personal support for this vital part of the legal aid plan. I think there has to be that blend between legal services provided by the private bar through the traditional law office and services that can be more effectively provided through the legal aid clinics, which develop an expertise in certain areas that, quite frankly, I don't think is possessed by most law offices. I'm talking about problems related to the disadvantaged, to welfare problems, unemployment insurance problems, workmen's compensation problems, matters of that nature. So, currently in Scarborough there are three legal aid clinics.

Mr. Warner: What ones are they?

Hon. Mr. McMurtry: These are duty counsel clinics. Have we distributed these things?

Mr. Leal: No, we haven't.

Hon. Mr. McMurtry: The community legal services directory, Mr. Warner. The other members might be interested in one of these directories if they don't already have one.

Mr. Warner: I'm intrigued by the three in Scarborough.

Hon. Mr. McMurtry: These are apparently on page 39 and page 40.

Mr. Warner: This is a different book. You're not including Cedarbrae library in that?

Hon. Mr. McMurtry: These apparently are duty counsel clinics. The description of what is done by the duty counsel clinics is contained on page 34.

Mr. Warner: Okay. Yes, you're right. There are three. Those three I was aware of. You'll also note they are open one evening a week.

Hon. Mr. McMurtry: As I say, whatever is contained in this directory is—

Mr. Warner: If I could take from what you've said, starting with my own experience, when people come into my office or phone me and require some advice, I send them, depending upon where they live, to any of those three. The Cedarbrae library is convenient for a portion of the riding in the east and in the west it is closer to go to Warden Woods.

Of course, I have to tell them: "I hope you are able to go on Wednesday evening. Please phone ahead and see if you can make an appointment so when you do go you'll get a chance to see whoever's there." It's most convenient, of course, if the problem happens to crop up on a Monday or Tuesday and not on a Thursday morning. We have a population of 400,000 in Scarborough, many of whom are low income. We have a very high proportion of public housing in Scarborough of low-income tenants who often don't know what legal rights they have. When they encounter problems they want advice and they need advice. We just do not have adequate service. And I don't think one evening a week is sufficient. And that's why—

Hon. Mr. McMurtry: Every Thursday evening too.

Mr. Warner: I haven't had complaints back. Constituents go over there, they're given advice and they apparently are satisfied, otherwise they would complain. The quality of service is fine. That's why I was asking you what kind of plans you have.

I understand the whole routine about government restraints. I'm well aware of that. I'd like to know what kind of plans you have, even if they're sitting on the shelf.

When we look at urban areas such as Toronto, Hamilton, Ottawa and so on, what kind of plans do you have you'd like to see put in place if you were given the money?

For example, do you have it tentatively planned that you would have a regular, full-time, nine-to-five store-front operation for Scarborough, or some other community? That's really what I was looking at. What kind of plans do you have sitting on the shelf that you could put into effect if you had the money?

I'm interested in your goals for this legal aid scheme. We've got the makings of a first-rate way of helping a lot of people. What we've got now is not good enough. I'd like to know what your goals are.

Hon. Mr. McMurtry: One of the underlying principles of the legal aid clinic movement is the local initiative. We feel very strongly about that. Assuming we had as much money as we would like to have, which we don't, we would not have our clinic funding committee running around the province looking for places to establish legal aid clinics. We just don't think it would work that way. We don't want that form of central control.

Where there is a need we depend on local initiative to bring together a group of citizens. Most of the boards that make up any legal aid clinic are represented by not more than 50 per cent lawyers; 50 per cent are people in the community who know the needs. The history of this movement is for people in a community who, first of all, know better the needs than we do here. They know how to serve those needs, such as through location and other factors which must be taken into consideration. This is how a number of clinics have sprung up throughout the province.

Once they establish their local boards, their local structure, then they apply to the clinic funding committee. All of this is set out in this directory as to how one goes about it.

We would hope and it is our expectation this clinic concept will continue to grow. Again, it depends to a very large extent on local initiative, because we have seen other concepts where people have attempted to develop a concept by simply going into a community and saying: "We think you need this. We've got government funding, so we are going to set up this program or that program," and 90 per cent of them fail very quickly because it has not developed from the grass roots in the community itself.

To our knowledge no formal application has been received from the Scarborough area, but there is undoubtedly a need there. The legal aid plan would welcome that local initiative to decide what the specific needs are as far as delivery of legal aid services goes. They allow one, two or three particular directions. Where would be the right location? Who would be the right people to be involved in establishing such a clinic?

If this is done locally, knowing the criteria laid down by the legal aid plan, such an application from Scarborough, for example, would be very enthusiastically received.

Mr. Warner: Good. There may be an application. I appreciate and support the idea of the local initiative and that local people should be involved in the operation of the clinic. Do I take it you are reconsidering and perhaps now leaning towards the legal aid program not being administered by the law society, but rather by the people who are locally involved?

Hon. Mr. McMurtry: No, I think this is a different issue. This issue came to the forefront after Mr. Justice Osler made his well-known report. One of the recommendations he made was the administration of the legal aid plan be taken out of the hands of the Law Society of Upper Canada and be administered through a community-based board with not more than 50 per cent representation from members of the Law Society of Upper Canada.

[10:30]

When I became Attorney General four years ago the Osler report was a year or two old. But I did state that while many of the Osler recommendations were acceptable and many were implemented, this was one recommendation I was not prepared to support. My position has not changed since that time.

Mr. Warner: That is such a logical extension of what you just told me.

Hon. Mr. McMurtry: No, perhaps I haven't made myself very clear. While I support the concept of the community legal aid clinic and with some degree of personal pride I say there are many people who are part of the clinic movement who are not overly sympathetic to our political party who do recognize we have done a great deal to salvage the legal aid clinic movement and have supported it, perhaps not with as much money as they would like, but I recognize they have made a serious personal commitment to this.

These clinics are made up of local community-based boards, but the funding is still administered through the Law Society of Upper Canada. We may have some difference of opinion, Mr. Warner, I am not sure, be-

cause I can recall some disagreement in your own caucus at one time over this issue.

Mr. Warner: We had a disagreement? Never.

Hon. Mr. McMurtry: That surfaced during these estimates. Mrs. Campbell will recall there were two members of the Law Society of Upper Canada who at that time supported the idea of the administration of the plan remaining with the law society. I understand they may have changed their views since that time.

Mr. Warner: I persuaded them.

Hon. Mr. McMurtry: I am still of the view the success of the plan is related, to a very large extent, to the fact it has been administered by the Law Society of Upper Canada. I repeat what I said on other occasions: The type of involvement and assistance provided by many hundreds of lawyers on a voluntary basis to the proper administration of this plan, not just in Toronto but through the various legal aid area committees throughout the province, to me is absolutely essential to the vitality of the legal aid plan.

I just don't believe the same type of service can be duplicated by establishing a separate bureaucracy to administer it. This may be something about which we disagree but I have to state for the record I am still firmly of the opinion the law society is the best vehicle through which to administer the legal aid plan.

Mr. Warner: Others may wish to participate, Mr. Chairman, but there is one other item under this I would like to come back to.

Mrs. Campbell: It really results from the obiter dictum of Roy McMurtry in this case, but you will recall our chairman was most anxious to place the statement of Mr. Sterling before the committee for discussion. That material was provided and I gave it only a very casual glance because I really didn't have time to read it in depth, but the Attorney General, in a glancing kind of way, suggested the people operating some of the clinics were not, shall we say, ardent supporters of the government.

It may be out of context but from what I read it seemed to me Mr. Sterling was issuing a warning in his statement that very clearly indicated his position as being even a little farther along the line in discussing the political aspects of clinics. I believe, if memory serves me, he was addressing a group in Rexdale. On that occasion he was pretty firm in his statement.

I think it is important that we understand what this Attorney General's position is. What bothered me from the little I read was there seemed to be almost a caution in that speech which chilled me a bit because I wondered whether that was sounding some kind of control or some kind of limitation on the clinics.

I think it is a matter that ought to be fleshed out. I think of those who have been dealing with landlord and tenant problems. Very obviously, those dealing with them were pretty one sided, if you like, but in my opinion they were no more one sided in their approach than a defence bar is one sided in the criminal process. They were dealing with the problems of people who didn't have very much clout.

I wonder how we separate those two situations so none of us is uneasy at the suggestion that any political motive might be on either side. I would like the Attorney General to expand. I am sure he must have read Mr. Sterling's speech in greater detail than did I and perhaps I misconstrued from my casual reading what he said.

Hon. Mr. McMurtry: The only reason I mentioned the politics of it is I was pleased to hear from groups I know are not political supporters of ours that they recognized the support and my personal commitment to this concept. I only mention that to indicate it in that context.

Mrs. Campbell: Yes. I understood your reference.

Hon. Mr. McMurtry: What Mr. Sterling said on that occasion, as I read his remarks again, was very similar to what I said almost four years ago at a conference of community legal aid people here in Toronto. That conference was attended by our esteemed colleague, the member for Lakeshore (Mr. Lawlor). He was present and heard me address the caucus at that time. Quite frankly, I recall him stating to me he felt I had gone into the lion's den, but people appreciated my frankness in dealing with some of these controversial issues.

One of the issues I dealt with was the administration of the plan vis-à-vis the Osler recommendation, indicating I supported the administration of the plan being left with the Law Society of Upper Canada, which obviously wasn't overly popular at that particular meeting.

I also stated that one of our concerns, as Mr. Sterling said, was the perception in some circles that some of these clinics were used to sponsor certain political candidates, obviously, at election time. I won't make any personal judgement on that, because I've never had any documentation to satisfy me that that had been the case. This concern,

however, had been expressed to me by members of at least two of the political parties represented in this Legislature.

What I said on that occasion—as I recall, it was almost four years ago—was that, for the clinical movement to succeed it was awfully important, that quite apart from the reality the perception be that the role of the clinic was to deliver legal services to those who had most need of them.

While the natural human temptation is to become associated with one political party or another, particularly when there is an issue before the Legislature that is a concern to people within that clinic, I cautioned them to be very wary of doing anything to encourage that perception. In my view, it would only damage and undermine the expansion of the community legal aid concept.

On October 24, Mr. Sterling said basically what I had said almost four years earlier—three and a half years ago.

Mr. Renwick: I am not talking about Mr. Sterling's remarks with respect to supporting a political party as distinct from some other political party. That is not the crass way in which I read Mr. Sterling's remarks.

His comment—and I am not taking it out of context because all of the members of the committee have the whole of the document, I am not going to take time to make certain the whole of the context is read into the record—is that the important point is the Legislative Assembly has voted funds for the delivery of legal services, not for the purpose of establishing a lobby group or supporting any form of political activity. "I caution you to exercise great care to ensure that your staff, your clients and the targets of your activities are fully aware that your object is the delivery of legal services, not the attainment of political goals."

As the Attorney General may know, I sit on the board of one of the community clinics in my riding—the Riverdale Social Legal Services Clinic. Let me say at the outset, I think the Grange report was a first-class report. The initial relationships we have with the new administration under the clinical funding process appear to be very good. The interchanges we have had about that in the initial stages have been excellent.

I wanted to explore the limits of what Mrs. Campbell has raised within the context of what we are doing in very specific terms. I have the fortune, or misfortune, to have the Canada Metals plant in the Riverdale riding, against which there is a government control order of some magnitude with specific deadline occasions related to it. One of the matters our education committee of RSLS is looking at is what we can do to protect the community with respect to the performance of Canada Metals; for example, monitoring for the community the compliance by Canada Metals with that order.

That is one area where, subject to the approval of the overall board of directors at one point and some other aspects of the same problem based on health legal aspects—because we also have a South Riverdale Community Health Centre—we would anticipate we would be doing that as a community activity, not on a one-to-one basis with a particular constituent or client.

[10:45]

Let me give you a second example. There is some concern within the community of Riverdale that what happened in Parkdale with respect to the bachelorette onslaught could surreptitiously take place in the Riverdale area. One of the community clinic educational roles we are considering at present is whether or not the legal aid clinic has the role of providing the kind of information and warnings that are available—sort of an early-warning system—so we would be aware if there were a subterranean invasion of the area by bachelorettes.

Although there has been a significant improvement over the years, there are still a reasonable number of noisome air-pollution factors, apart from Canada Metals. Because it is a legal base in the environmental law framework of the province, we were thinking of alerting the community to the location of those factors. We have had co-operation about it before from the Ministry of the Environment.

Those are the kinds of community activities we will be taking part in. In addition, as Mrs. Campbell has indicated, our clinic made a submission before the standing general government committee on the landlord and tenant bill, during those long hearings about that bill. Obviously the submission was from the point of view of the tenants rather than of the landlords, although there were overtones in respect to small landlords' problems, which my colleague, the member for High Park-Swansea (Mr. Ziemba) was interested in.

Was there any indication in Mr. Sterling's remarks, which I take for practical purposes to be the Attorney General's remarks, that that kind of involvement—in a sense political, but with a firm base in the law of the province and a real concern about the impact of municipal and other laws on the community—is a reasonable activity for clinics to take part in, in addition to their regular one-to-one advising of people in the area?

Hon. Mr. McMurtry: In general terms, I think they are. Obviously, common sense is the best guide in all of these issues. When we were talking about "political," we were really talking about partisan political activities. I realize that at some point the dividing line may be a little difficult to draw.

One of the things we have tried to do, through the legal aid funding committee, pursuant to Mr. Justice Grange's report, is create a bit of a buffer. So far as the government is concerned, we want to insulate and protect the legal aid clinical funding from any perception that any of these clinics are being funded for any partisan political purpose.

We have established a five-member funding committee. One of my two representatives is a member of the ministry, Mr. Michael Fitzpatrick, the director of legal services. The other is a very distinguished Toronto lawyer with extensive experience in clinics, Mr. Brian Bellmore.

If there are any problem areas that concern you, Mr. Renwick, they would be the best people to discuss them with. They do have the final say in relation to funding and they would provide better guidance than I would want to be seen to be providing when it comes to the type of clinic activities that might give them concern. I was only making some broad general observations in relation to the importance of avoiding any perception of partisan political activity. Obviously, there are local issues that may be espoused by a political party but which are of legitimate interest to the community as a whole and therefore in general terms would be a legitimate area of activity for a particular clinic. I want to emphasize we have attempted to insulate the plan in this area from any perception of "government interference" so far as the funding is concerned.

Mr. Renwick: One minor addition to that: I think it is fair to say sometimes actions of the government in the nonpartisan sense of government, because presumably regardless of the complexion of the government the same problems would arise, do create some anti-government feeling. I think some aspects of the landlord and tenant bill, from the point of view of people dealing with tenants, have created something called an anti-government feeling, I think that is likely to be true unless this damned problem of Canada Metals is straightened out in Riverdale.

Mrs. Campbell: It already has been created.

Mr. Renwick: Of course it has, yes.

What took place in the landlord and tenant thing I think was on the initiative of some of the lawyers acting within the community clinics, specifically Mary Hogan, Diana Hunt and—while I don't know of his direct involvement now—Professor Gathercole and so on. It led to finally retaining the services of Ian Scott to argue the constitutional references, rather than leaving the matter solely in the hands of the government designee, John Robinette.

Hon. Mr. McMurtry: He was not the government designee. Mr. Robinette was the designee of the court.

Mr. Renwick: Oh, he was actually designated by the court, was he?

Mr. Leal: And the other side of the argument.

Mr. Renwick: I recognize that. I just thought there was some sentiment that the government had indicated John Robinette would be the one. But, as you say, it was the court that designated him.

Hon. Mr. McMurtry: It was the court's choice, yes.

Mr. Renwick: That's fine.

In a sense, the legal clinics end up taking an initiative actually on a constitutional reference to argue against that bill. I hope any connotation Mr. Sterling may have intended in speaking on your behalf was not meant to inhibit those kinds of very legitimate activities.

Hon. Mr. McMurtry: I can make it clear it was not intended to inhibit that type of activity.

Just for the record, Mr. Chairman, I described Mr. Fitzpatrick as director of legal services. I meant to say he was inspector of legal offices and deputy director of courts administration.

Mr. G. Taylor: A supplementary question if I may: I haven't read the Legal Aid Act too recently, but as I recall in its initiation and formative years, there was really a direct, if not an implicit, prohibition of the style of action Mr. Renwick has just discussed.

I recall reference to relator actions and class actions, and also we wouldn't be funding any test cases, which usually run up against government legislation. It really had to be a one-on-one situation. If you gained your result at a lower level, we wouldn't run through the appeal procedures and constitutional procedures.

Yet I am hearing you now saying, Mr. Attorney General, if it is possible to do something through a community funding process, possibly you can do something indirectly where you could not do it directly if you

didn't fund community legal aid clinics. Perhaps the Legal Aid Act should be amended so others who desire to achieve the same remedy may do so without having to go through the legal aid clinic in their area, or even where they do not have a legal aid clinic.

It may be that legal aid clinics, in spite of themselves, have brought to your attention a possible correction of the act.

I add one more thing to that, Mr. Attorney General. When I hear the—

Hon. Mr. McMurtry: Section 15 of the Legal Aid Act states: "A certificate shall not be issued to a person in certain areas of proceedings wholly or in part in respect of defamation, breach of promise of marriage, loss of service of a female in consequence of rape or seduction, alienation of affections or criminal conversation." Most of those acts don't exist in law any more in any event.

The type of action I understand meant by relator actions would be public interest types of actions where the law of standing requires the consent of the Attorney General. We discussed this earlier, the famous case of Gouriet versus Union of Postal Workers in the United Kingdom—that type of relator action.

And, "(c) in proceedings for the recovery of a penalty where the proceedings may be taken by any person and the penalty in whole or in part may be payable to the person instituting the proceeding; or

"(d) in proceedings relating to any election."

Those are the only prohibitions that exist in the act.

Mr. G. Taylor: I was using the term "relator" as sort of an analogy. But there is also one where I might just want to test a particular law. There is nothing in it for me as an individual, but I would like to know. I may only get $1 in damages, I may only get a slight correction, but as I understand it, one would not get funding from legal aid if one desired it only for that reason.

Yet I see it saying here that community legal services can monitor a program; it is funded; it is watching what is going on with a view to possibly challenging. Do they then shop for somebody to be the straw man to challenge it? As an individual citizen, or if I don't have a community legal aid clinic funded, I don't have that available to me if it happens to be a problem say outside of Metropolitan Toronto. Can I make such an application through my local legal aid clinic and say I would like to have a particular lawyer monitor this situation to see if something is going to be an annoyance to me so I can find legal remedy for it?

Hon. Mr. McMurtry: There has been the occasional test case brought by a clinic. I was trying to get particulars from Mr. Campbell, because I know as a general rule clinics do not represent individuals in the county or Supreme Court. It is relatively rare for that to be done, but occasionally a test case is brought by a clinic.

With regard to individuals applying to a local area committee for a certificate, it is usually a matter of discretion. In many cases this certificate or application for certificate has been turned down.

Mrs. Campbell: Shouldn't it be clarified, though? I would assume and have assumed, perhaps erroneously, that if I were proceeding in legal aid and wanted to test, for example, the regulation—as many of us would like to do—pertaining to the Community and Social Services legislation, would it be a matter of discretion? I would have thought that I would have been refused. Would a clinic be in a higher position?

[11:00]

I think it is an important question. If a clinic may do it, why not anyone else in the legal aid scheme, particularly if you don't happen to be fortunate enough to have a clinic in your community?

Hon. Mr. McMurtry: Again, an individual clinic might take that on out of their own funding. But it's more likely they would apply to the clinical funding committee of the law society for some extra funding for that purpose, if it is a case that involved any significant disbursements. That would then fall within the discretion of the funding committee.

I think you have to have discretion. I don't think you can be precise about when such an application would succeed or when it would fail.

Mrs. Campbell: I want to understand that. Do I take it that because community clinics have a certain global funding—that's an awful word for what they get—as opposed to the individual practitioner, they may themselves exercise their own discretion in the use of those funds for that purpose, but if they made an application, in all probability the same rules would apply? That seems to me a little bit on the nebulous side.

Mr. Renwick: I take refuge in the lawyer's desire never to get involved in these hypothetical questions, but there are a number of those down-the-road situations which haven't been resolved. One of the great strengths

of what has developed from the Grange report is that they have carefully stayed away from any intrusion. They've said: "Look, the board of directors of each of the clinics has the responsibility for what that clinic does. If at some point what they've done deserves to be rapped, presumably they will be rapped for it by somebody. I don't know who, but somebody will do it."

For example, one of the connections that hasn't yet been made is that in a specific situation could an individual person go to the legal aid clinic? The legal aid clinic deals with a Ministry of Community and Social Services application up to a certain point, say to the social assistance review board. The clinic considers the case. The lawyer in the clinic is of the opinion that it should be taken on a reference.

What has not yet happened is that we have never tested it. For example, we've never said to the client, "You take this opinion and go to legal aid and ask for a legal aid certificate addressed to the clinic to take that case to the court." Instead of going outside and retaining an individual lawyer, the case continues to be a clinic case, but the money comes on the particular certificate and it is in addition to any funds they would otherwise receive. It would be a fee received by the clinic under legal aid.

But we haven't crossed that bridge. Maybe some day we will. We are inclined to think that's a useful road to be able to follow, rather than to say to the person, "We think you've got a good appeal, but you'd better go and get a lawyer outside to handle it on a legal aid certificate basis."

On the constitutional reference point, it was not a question of them initiating the proceedings. The government initiated the proceeding. Then it was simply a question of were they prepared to have the designee of the court handle the argument, or did they feel there were certain aspects of the overall argument that would be made, that required the kind of specific, intimate knowledge and emphasis that they could provide to it? They made that decision.

Mr. A. Campbell: The question was brought to my attention, but I wasn't present at any of the hearings on that particular application. Ian Scott was counsel, I understand you to say. What happened to all of the other counsel who had retained him, who were equally gowned and presumably with some legal function before that court? What was their position appearing gowned at that point? Were they acting in a legal capacity before that court, or were they there assisting Mr. Scott?

Mr. Renwick: I have no personal knowledge. I believe they were there assisting Mr. Scott and that Mr. Scott made all of the presentations. That's my understanding.

Mrs. Campbell: What would be the funding implications in a case like that? Would there be funding for their appearance as well as Mr. Scott's? It's an interesting point and it seems to me that one should perhaps look at it.

Mr. Renwick: I don't know how Mr. Scott's fee is going to be paid.

Mr. G. Taylor: I don't want to make you into Attorney General either, Jim, but the questioning seems to be going over to you. What would you have done in a situation that came into your place, such as the Family Benefits Act situation where the husband wants family benefits? Under the discretion of a legal aid director, I would probably not get a certificate if I had that particular problem because I was going to very specifically test a piece of government legislation. Yet with your community legal aid clinic, with your staff lawyers, you could say, "So-and-so, staff person, take this and run it and see what happens with it."

That's a benefit you have with your community legal aid clinic with your global funding that an individual doesn't have. It may even go all the way to the appeal procedure—their saying: "No, the act doesn't apply to you. You're a male, and we're not going to let you test it." How would your operation view that?

Mr. Renwick: Assuming we live in the best of all possible worlds; if there were something unusual about it, I would assume the staff of the legal aid clinic in reviewing it would have it flagged in such a way that it would be referred to the board for its consideration or confirmation of the way in which they proposed to deal with it. We haven't had that particular case, but that's how we try to operate there. The board meets quite regularly, at least once a month, and the various committees of the board meet in the interval. There's very close connection between the staff and the staff's quite alert to that kind of problem. I don't know the answer.

Mr. Warner: This is fascinating.

Mr. G. Taylor: There are too many lawyers sitting here right now.

Mr. Renwick: I'm sure the Attorney General would agree that the great thing is that the concept has been established. What these processes are requires judgement and decision as they go. We're not far enough down the road yet to know.

Mr. Warner: I had a question related to the legal aid and it's another separate—

Mrs. Campbell: Excuse me, I don't know whether it's just me, whether I'm fuzzy, but I don't think that the Attorney General has really addressed the questions that have been put in this. I think it's important.

He did address Mr. Renwick's initial question.

Mr. Warner: Not Mr. Taylor's.

Mrs. Campbell: I'd just like to have a further discussion with the Attorney General on this.

Mr. Renwick: Don't press him too far.

Hon. Mr. McMurtry: As I understand Mr. Renwick's last remark, it seemed to make great sense. That is, we're not far enough down the road to make any value judgement with respect to the precise manner in which these applications should be dealt with. I'm not sure just when we reach that point.

Applications are made from time to time in the area that Mr. Taylor talked about where certificates have been issued. I understand there's a committee of the law society that meets monthly to deal with this very problem. At some point, responsible people have to make a value judgement as to when a certificate should be issued, or when it should not be issued in this area. As I understood his comments, Mr. Renwick has suggested if it were desirable to develop more specific guidelines it would be premature to do so at this time.

Mrs. Campbell: I have a worry overall that in so many of the things we do in the justice field we have either a pilot project or some of these discretionary decisions. It doesn't seem to me that results in equal justice across the province. I have had my quarrels with Mr. Walker in the private project in Peel. I worry about the fact some people have greater access than others perhaps. It bothers me.

If we are trying to deal with those people who because of financial or economic reasons do not have sufficient clout, they should not be denied what I would see as almost natural justice by reason of some discretionary decisions of some body. That does bother me.

Hon. Mr. McMurtry: My only response would be there is no evidence that is happening.

Mrs. Campbell: I see. I took it from what you said there were some cases where a certificate flowed and some where it didn't. If that were the case, I would really want to know the basis upon which those decisions were made. If that is a misunderstanding of what you said, then of course I am prepared to accept there is no evidence.

Hon. Mr. McMurtry: No evidence has been brought to my attention that individuals are being treated unfairly as a result of this exercise of discretion.

Mr. Renwick: On that point, I ran into what I never thought we would run into. I recall when the legal aid bill was passed there was a prohibition in the statute against a certificate being issued for defamation. To my surprise, Ward 8 News, which is a small community newspaper, whose board of directors consists of a number of people who are certainly in straitened economic circumstances, has been sued for libel by Meyer Solomon on the question of the two articles that were placed in the paper with respect to the bachelorette problem.

The result was when they consulted about it, certain of the individual defendants who are otherwise eligible for legal aid went to apply for a certificate and, of course, they were shown the specific statutory prohibition against a certificate issuing for defamation, with the result they will have to seek elsewhere for support.

I am just simply asking that at some point perhaps we might review those statutory provisions to see whether or not the original ones are too tight in situations like this and whether there shouldn't be some discretion, because as anyone knows any one of those actions can be long and drawn out and can be very harassing. It is very specialized. I have no idea whether Mr. Solomon intends or doesn't intend to pursue it and what the extent of it is.

We have consulted counsel. Counsel has agreed to take the case so they are not worried about the actual course of it, but they are prohibited in otherwise justified circumstances from getting a legal aid certificate. Defamation is grouped in with half a dozen others in the act.

Hon. Mr. McMurtry: Mr. Campbell points out to me lawyers can often be retained to volunteer services when it seems to be in the community interest to do so. I am only guessing but I assume the original framers of the statute were concerned about people getting certificates to act as plaintiffs rather than as defendants.

[11:15]

Mr. Renwick: I could rather guess that that was it. You didn't want an open door to give people licence to defame.

This defence operation seems to be in this case, a very legitimate one. Everything seems to indicate a real libel/slander action.

Whether there is a defence or not is left up to the courts, but it could go on for a long time and everybody knows if it's pursued, it can be damned expensive. We will likely have to raise the money by some form of community activity. We used to be able to hold lotteries, but that is prohibited now since it is not for a social purpose.

Mr. Warner: Ancillary to the question of legal aid, what about legal insurance? Has the Attorney General given any serious consideration to it? There is a growing movement in the United States and some concern expressed in the Maritimes, in Alberta and by the Canadian Bar Association, though it seems to be couched in some rather offensive terms, that the rich can afford lawyers, the poor have legal aid and the middle class have nothing. The chap who made the remark said "the poor and lazy." If I show up in the legal aid office and declare myself to be lazy, perhaps I get a certificate. I don't know what he meant by that.

I am very curious to know whether or not the minister has considered this matter and in what form he has considered it, and does he have any intentions in the coming while to react to the question about legal insurance?

Hon. Mr. McMurtry: The administration of the profession is under the jurisdiction of the Law Society of Upper Canada and they have made it clear they have accepted the principle of legal insurance. I think their only concern is with respect to closed panels, that the individual insured should have the right to choose a lawyer as opposed to a closed panel. So the law society is on the side of legal insurance.

I understand the Ministry of Consumer and Commercial Relations is working on a regulation. I can't predict exactly what will happen, but I think they are considering a regulation with a view to permitting that type of insurance to be written. I will certainly inquire of Frank Drea just where it stands, but it is a question the member might want to ask him in the Legislature.

Mr. Warner: I appreciate that I am directing it to the minister because I understand the problem; people on middle incomes in many instances are barred financially from proceeding with some cases. I can understand that and there should be some approach to that and some remedy.

Opening up insurance in new fields has not always been a great boon to everyone. I think about the insurance being opened up in terms of dental care. It has been a great benefit to the dentist, but not necessarily to all of us. The premiums tend to increase—the dentists are doing quite fine—and depending on the type of plan one has and what it excludes, it may only cover 50 per cent of certain items and zero of other items and so on. I have watched that develop and I am not convinced it is entirely satisfactory. I guess I have the same kind of concerns if the government just simply opens it up to insurance companies and says "Yes, we will now allow you to write up prepaid legal service." I wonder if you had given any thought to a government-operated, non-profit legal insurance scheme.

Hon. Mr. McMurtry: I think I can answer that fairly emphathically no, the government at this time has no intention of getting into any such government-run plan.

A number of private insurance companies have indicated an interest in it, as I have already suggested. They have approached the superintendent of insurance with a view to amending the regulations to create a new class of insurance, but the government doesn't intend to get into this type of business. The deputy minister points out to me that this insurance does exist in other provinces, I gather through the private industry, and—

Mr. Warner: Which ones, do you know?

Hon. Mr. McMurtry: I wasn't aware of that.

Mr. Leal: I am not sure that I can recall, but I do remember seeing something very recently where it was stated that in three other provinces in Canada the underwriters were writing this type of insurance and this was one of the reasons why it was sought to amend the regulations under the Insurance Act of Ontario to permit it to be written here, because it is doubtful at the moment whether it can be written here.

Mr. Warner: I am disappointed that you haven't even considered the possibility of the government including it; I would have thought it logically, to my mind, anyway, through your ministry, an adjunct to your legal aid plan so that where our legal aid plan had stretched to the limit in terms of who they could help—

Hon. Mr. McMurtry: We don't administer the legal aid plan.

Mr. Warner: That is a problem I raised earlier.

Mrs. Campbell: You walked into that one.

Hon. Mr. McMurtry: I guess we have some basic, honest disagreements of opinion in this area, Mr. Warner, whether they are philosophical or otherwise. We just respectfully disagree on this particular point.

Mr. Warner: Yes. I appreciate that. I would hope that you could appreciate my concern with respect to other areas of insurance which have been opened up and that they may not have solved all the problems. For example, I still believe very firmly that the way to solve the problem of children getting adequate dental care in this province is not by an insurance scheme operated by the insurance companies, but through an extension of our health-care system. That may be a very basic philosophic difference between you and me, but—

Hon. Mr. McMurtry: No, that is not a philosophical difference at all. I agree wholeheartedly with the goal, the principle of providing adequate dental care particularly to children.

Mr. Warner: But you wouldn't look at it in the same light with respect to what legal aid service we provide in the province to people and a way of then extending that through an insurance scheme?

Hon. Mr. McMurtry: I don't think the government should get into this type of business. I think some of the unions have indicated an interest in providing this type of insurance to their members as part of their collective bargaining process and I think it is a very good concept. I don't quarrel with the idea of insurance companies getting involved in this business, and I certainly think unions that are able to include this type of coverage through a private insurer as part of their collective agreement—

Mr. Warner: You had better not go too far on that one.

Hon. Mr. McMurtry: I think it is an interesting concept, but there was a very celebrated and very public difference of opinion at one time between two of the senior members of your caucus on government-run automobile insurance; the difference in your own caucus was well celebrated and public.

Mr. Renwick: I certainly don't recall that.

Mr. Warner: I do recall his signature on the dissenting report.

Mr. Renwick: I recall all the splits in the other two parties, but never in my own.

Mr. Warner: You may be aware that an executive of the Canadian Labour Congress made a statement on legal insurance that that is the basic premise of this concept and the labour movement will not tolerate our collective bargaining process to become a financial milch cow for the legal profession. So it isn't necessarily viewed as a panacea by the labour movement.

Hon. Mr. McMurtry: Why is it the lawyers always have to suffer so much abuse?

Mr. Warner: They're maligned. It's just a mysterious thing as to why they're so maligned.

Mrs. Campbell: Because they choose not to defend themselves.

Mr. Warner: But they do hire other lawyers to do it.

Are you aware of other jurisdictions where legal insurance is in effect and, if so, have you done any study of that, any critique or evaluation as to whether or not it does work where legal insurance is in effect?

Hon. Mr. McMurtry: We will try and provide this information for you. I reiterate, the Ministry of the Attorney General—you'd say for all the wrong reasons, Mr. Warner—has no intention of getting involved in the legal insurance business. The government has no such intention.

The merits of these plans in other jurisdictions I'm sure have been assessed by your own superintendent of insurance. I'd be interested, just as you are, to know just how they've worked elsewhere. I'd be just as interested as you are in what their views are. We'll find that out and we'll both be informed, hopefully.

Mr. Acting Chairman: Now, shall item 1 carry?

Mrs. Campbell: Mr. Chairman, I have a problem. My colleague, Mr. Conway, sat here all day Friday and was in this morning earlier and he does want to address the Attorney General on some of the problems I raised in my opening statement as it applies to the quality of administration in his area, in Renfrew.

I had assumed that he could come in later in the estimates. I'm just not sure whether we'll get to all of the estimate items and I would like to protect his opportunity because I think it's important. The Attorney General did not respond, as I recall it, to that particular statement, other than to say he would respond when it came to the vote.

Hon. Mr. McMurtry: I thought it was under the courts vote.

Mrs. Campbell: I thought it was. The difficulty is with the way these darned estimates are going, I don't know if we'll ever get to that vote.

Mr. Acting Chairman: I'm very flexible, Mrs. Campbell.

Mrs. Campbell: I just would like to protect his opportunity, because it is a serious matter.

Mr. Acting Chairman: There's no problem.

Item 1 agreed to.

Mr. Renwick: One other request. We're moving a little quickly and I'm not really asking for any answer now, I just want it recorded. I've had this question raised with me and I was asked to raise it with you. Actually the writer of the letter is not significant as the question is in general, but it was the Unemployment Help Centre that wrote to me:

"We are presently seeking to obtain clinical funding for the 1980-81 fiscal year. To this end we had directed an application for funding to the Ministry of Justice in Ottawa. We met with initial success in this endeavour but now understand that budget cutbacks in the ministry will result in a refusal of our request.

"We wonder if Ontario legal aid authorities are aware of the cutbacks in federal clinical funding and if any steps will be taken by the Attorney General to improve the funding climate in Ontario, in the light of the cutbacks in Ottawa."

I guess my question is that I hope in whatever the discussions are with respect to the funding they would be aware there is more than one clinic which has been dependent to some degree on federal funding and may now be affected by this. I just want to record that for your consideration.

[11:30]

Hon. Mr. McMurtry: Thank you.

Items 2 to 6, inclusive, agreed to.

Vote 1402, agreed to.

Mr. Warner: We didn't complete vote 1401, Mr. Chairman.

Mr. Acting Chairman: Vote 1401, vote item 1.

On vote 1401, law officer of the crown program; item 1, Attorney General:

Mr. Warner: I had three questions. I originally listed three and I got two of them in. The third one—perhaps there were a few others, but the one I really wanted to raise was on unpaid child-support payments.

While there was some controversy over it, the figure of $38 million comes to mind as the amount of outstanding payments. When it was raised in the assembly, the question was directed to the Minister of Community and Social Services (Mr. Norton) who, in his response, in part, said he was going to discuss this matter with you.

I really want to know who is going to attempt to take the pressure off the mothers and attempt to get the payments from those delinquent fathers. What happens in some cases, as the minister is probably aware, is the pressure for the default by the father is put on the mother. It is really mind-boggling and people in the Ministry of Community and Social Services family benefits branch will tell the mother. We are going to cut you back because the father isn't paying and you have to find him."

I take it there has been a court order for support payments. If the order isn't lived up to then surely it is a matter for the court to attempt to enforce that order which was put on the father, ordering him to make payments of X amount. That is just my opinion.

I just assumed that was the way it was supposed to work. If a court order is put on the father, I don't understand why the mother should be responsible when there isn't a payment by the father. I don't understand that.

Mrs. Campbell: I don't understand those circumstances, I don't understand that at all. This was the case some years ago; even when the order was made and before it came time for a payment, a mother was cut off welfare. That was when we instituted in Toronto—and it is now across the province, as I understand it—that sort of voluntary directive to ensure that a mother would not be cut back.

Mr. Warner: It happens every once in a while. It still happens unless the person phones someone to have it raised. The payment is cut back and you have to then fight with the benefits office in order to have it restored. They are not supposed to do it, but they do it from time to time and it is very frustrating.

What I find extremely annoying is that someone would consider the mother responsible for an order from the court placed on the father. I do not understand that. Perhaps you could relate to us the fascinating conversation you must have had with Mr. Norton and the result of all of that. Who is going to attempt to get the money from the fathers?

Hon. Mr. McMurtry: You are dealing with two situations here. First of all, I think the situation you are talking about is where orders have been made in favour of wives who are on welfare or family benefits, where there are public funds involved, because otherwise the crown has no status whatsoever.

I can't assist you on what the internal procedures are in that ministry on cutting back the mother on this type of allowance

if she doesn't find the husband. I know nothing about that.

I know Mr. Norton's concerns were in relation to what he viewed to be overly-lenient judges in the family court. That was the thrust of his remarks in the Legislature with respect to husbands in default brought before the courts. He indicated he was of the view they were overly-lenient in the penalties meted out to these husbands.

I get copies of the correspondence and I recall the associate chief judge, Robert Walmsley, was concerned about some of the press that has emanated with respect to these large arrears and the allegation the family courts were not enthusiastic enough in enforcing these support orders when the husbands were within the jurisdiction. He wrote letters to the editor indicating a somewhat different picture of the arrears.

That was Mr. Norton's concern. I indicated to him I thought he perhaps was not fully informed as to the role played by the family court judges and they were not as lenient as some of his officials apparently thought. Obviously his people are interested in recovering these moneys because we are dealing with public funds.

When we are not dealing with public funds, where it is a mother or wife who has a support order, the system has always been it is the individual litigant's responsibility to recover the amount owing. We have attempted to alleviate that problem. Mrs. Campbell spoke about the automatic enforcement of orders procedures instituted in Toronto during her tenure as a family court judge. In any event, this automatic enforcement was a procedure whereby the files were reviewed monthly and notices were sent out to attempt to avoid the necessity of women returning month after month.

Again the crown does not have any standing. In the best of all possible worlds, if we could hire a thousand lawyers and 10,000 investigators to help us enforce these orders on behalf of women whose husbands are in default, it would certainly be desirable.

There is no magic about this. Husbands are in default, are moving from one jurisdiction to another and the problem of locating defaulting husbands is an enormously difficult one. We are really talking about many bodies we could use to assist mothers and wives with defaulting husbands. It would be nice if we had those sort of resources.

Mr. Warner: I am a bit confused because I understood under the Family Law Reform Act you had the power to garnishee wages. Where you have identified the person, you know where he is, you can then, if he has defaulted on his payment, garnishee his wages so you are guaranteed, at least for a while—

Hon. Mr. McMurtry: It still has to be initiated by the wife.

We have improved the procedures with respect to garnishees. Mr. Campbell can give you more details. But as I recall, an order can be made, it can be filed with an employer, that will require the employer to deduct a certain amount of money every month.

Some of your colleagues in the NDP have publicly opposed the whole concept of garnisheeing wages.

Mr. Warner: I understand that.

Hon. Mr. McMurtry: But be that as it may, the procedures have been improved through the Family Law Reform Act. Rather than having to go through the process of garnisheeing every month, an order can be filed which requires the employer to automatically deduct this amount every month. But still, the individual wife or her lawyer has to be involved in the process. The crown does not have status in these matters unless there are public funds involved.

Mr. Warner: Does that make sense to you? Two people ended up in court and at the determination of the court there was an order given that the husband was to pay X dollars a month to support the children. The mother was left with the children. In most cases, she doesn't have a job, she's got children to raise on her own and she is struggling. It's a damned tough life.

On top of that, the husband is off on his own, carefree, with no responsibilities other than to make sure he survives every day. He's got a job. He decides he's not going to pay so it comes back to the mother who then has to initiate another procedure.

That doesn't make sense to me.

Mrs. Campbell: You're talking about persons in receipt of some form of public assistance? I don't understand that at all.

Mr. Warner: No, no. That's not what I'm saying. I'm talking about when the husband has been directed by the court to pay $50 a month, or whatever it is, to the mother for the support of his children and he decides he's not going to. The mother has then to go back to court. That's what I don't think is right. I don't think that's a good procedure. I don't understand why the court, when notified payment has been cut off, doesn't go after this fellow.

I understand the problem about finding him. If he takes off to the States or to some other place in Canada, it's very difficult to

find his exact location and to go through the legal procedure involved. But if you know where he is, if he's in the province and you know his location, it just seems to me that the abandoned mother has enough problems without having to go to her lawyer and back into court because this fellow has reneged on his responsibilities. That just doesn't seem right to me. If what you're telling me is the law, what I'm suggesting is maybe you should change that.

Hon. Mr. McMurtry: It's not the law that's the problem, the resources are the problem. The law is there. I would be pleased to be given the resources to allow within the court system, automatic review of these enforcement orders. This is done now to a certain extent. There is a review and it has provided a lot of help to women in those circumstances. But our resources are not adequate in that area.

It's not a question of changing the law so much. If we were able to hire the staff across the province it would allow us to scrutinize these orders more closely, to provide investigators to help the wife locate the husband, at least within the jurisdiction, and to provide legal counsel if she doesn't have legal aid.

We're not talking about where there are public funds involved because right now the Ministry of Community and Social Services is anxious to enforce these orders.

I would be delighted to have the resources required, and they are considerable, to make our whole process more effective.

[11:45]

Mr. Warner: What happens if I tell you where the guy is? What happens then?

Hon. Mr. McMurtry: It depends on what the circumstances are.

Mr. Warner: If he's in Ontario, in Metro Toronto for example, where his wife has been abandoned and he hasn't lived up to the court order to make the payments.

Hon. Mr. McMurtry: As I understand it, the court will issue a summons for his appearance. He will be brought before the court to show cause as to why he is in arrears, why he can't pay. The court does have the authority to send that person to jail.

Mr. Warner: In that situation it is not necessary for the mother to retain legal counsel?

Hon. Mr. McMurtry: No.

Mr. Warner: That's some minor help.

Mrs. Campbell: I don't know the operation as far as show-cause summonses are concerned, but the real breakdown was the courts felt there should properly be persons attached to the courts for the purposes of pursuing husbands in a show-cause situation, for very obvious reasons. As long as that procedure was in the hands of the police, it was a very distasteful procedure for them. You could have an address, you could give the address and the police would wind up making the statement they could not locate him at that address.

I don't know how that functions today. That was my experience prior to the family law situation. But as long as you have a show-cause summons kind of approach, whether it's automatic or whether it isn't automatic, if the necessary service is in the hands of a metropolitan police force, as it was, the experience was less than satisfactory. They had other priorities in their system. The request was made from time to time that we should have officers attached to the courts for that purpose, to make that more available.

I have to tell you, and I will say it unequivocally, it is not the fault of the judges. They just don't have the kinds of opportunities. It angers me when somebody who doesn't seem too familiar with the process makes that statement about family court judges.

The only time I have had some misgiving is when some judges, after a buildup of considerable arrears, are prepared to cut those arrears. It seems to me those arrears should stand because the husband at some time might come into some money that should properly be addressed to the order. That was the only kind of circumstance I know of where judges didn't pursue it within all the limits of their opportunities.

In my time your ultimate opportunity to enforce an order was to send a man to jail, which never seemed to me to be a legitimate function. But you have to realize that in our society the Law Society of Upper Canada, for example, on a contempt matter of that kind, would not consider that to be conduct unbecoming a lawyer. It isn't a matter of money; it's societal in many areas.

Mr. Warner: I expressed a great deal of frustration because I have come to see my constituents who I know are desperately struggling to support themselves and a couple of children. They've been to court and they thought that solved the problem. They thought they were getting so many dollars a month from the father.

When the cheques stop coming they have two problems. They have money cut back from mother's allowance.

Hon. Mr. McMurtry: I don't know about that.

Mr. Warner: That's not your responsibility. Then they are told by the worker, "You have to find that husband if you want to make sure you either get money from him or from us." Then I become upset about it.

Of course, Mr. Norton said the whole area of enforcement has to be looked into and tightened up somehow and that's what he would be discussing with the Attorney General. Now, that was said back in May. I just wondered what discussion he had and if there was some conclusion about his question on the enforcement.

Hon. Mr. McMurtry: We both agree that we, personally, would like to have more resources; then a lot of this problem would be solved—not entirely, because people disappear all the time. But one of the problems they have over in ComSoc in the enforcement of these orders is in relation to wives who are on welfare or family benefits. Many of the wives really aren't interested in the enforcement of these orders against their husbands. This is what Mr. Norton's people have told us. As long as they are getting their benefits, they would just as soon not hassle their husbands. So, one of the frustrations the people in ComSoc feel apparently is where public funds are being paid out, where a support order is outstanding and the wife isn't interested and doesn't care where the money is coming from. Because of children, or for other reasons, she may not want her husband to be hassled as long as she gets this amount of money. That's another aspect of the problem.

Mr. Warner: You would assume there would be greater security in a government cheque than an irresponsible father.

Hon. Mr. McMurtry: Yes, sure, I understand that. I can understand where children are involved, the tension, the emotional trauma involved in extracting money from the father of your children. If you can get the money from the government, any normal person naturally would want to avoid that personal problem.

But then again, that's one of their problems they have made known to me. So far as our role is concerned, if we had additional resources in this area there's no question we could be more helpful and we would like to be more helpful to women in that position.

Mrs. Campbell: Didn't we change the legislation? Was it only ab initio? One of the things the courts felt was it was wrong a wife should have to be the one initiating in the first place, since the initiation was really at the demand of the welfare agency, be it municipal or provincial. I thought that was amended.

Was that not amended for other than the ab initio? Doesn't the agency now have the right to pursue that order?

Mr. Leal: Yes.

Mrs. Campbell: Well, then I don't understand the concerns of ComSoc.

Mr. Renwick: It's not working.

Mrs. Campbell: It isn't working. They are not pursuing it. Is that what it means?

Mr. Renwick: If I may—

Mrs. Campbell: I would like you to, because I haven't any experience in it.

Mr. Renwick: —because it is related directly to this. I raised this specific instance in the estimates of the Minister of Community and Social Services.

A constituent of mine was most anxious to collect funds from her husband for the support of her child after the desertion took place. There is no question of motivation or laying back. She was found to be eligible for family benefits assistance which she was in receipt of when she was suddenly advised they were going to cut her because she was not pursuing her claim against her husband with the alacrity they thought she was. In fact, she was pursuing it because she had not only consulted with me about it right from the very beginning of the desertion in question but I had referred her to a firm downtown for the purpose of applying for a legal aid certificate in order that she could go to assert her right in the family court. The legal aid plan refused the certificate on the grounds that she was in receipt of family assistance and it was therefore up to the family benefits group.

The file was returned to me at that point and I raised it again with the government, because the lawyer downtown was quite prepared to proceed in a difficult situation had the certificate been issued; but the certificate wasn't issued. I raised the matter directly with the director of family benefits and in some way or other the woman is now being represented through some intervention of family benefits under some kind of a legal aid certificate in order to establish this. I tried to persuade the minister that the selfish interests of the government in revenue matters at this time surely must be such that they must be paying out, under the welfare system, significant amounts of money for which they could make a recovery.

We thought the problem had been solved. When I raised it with the minister, he sent me a long reply which I will send on to you—or which you could get from the minister in due course—and which I haven't studied, as to why the system is or isn't working—I don't know which. I had thought it would be a very simple matter for the ministry, if my colleague will forgive a legal expression, that once it had granted a claim for family benefits it would be established that it would take an assignment of a chose in action of the wife against the husband for the support payments and proceed in the name of the wife or whoever it was, if necessary, to process the matter, naturally requiring the co-operation of the recipient to appear in court if that were necessary.

The number of dollars involved is now so significant I would assume, if I could say it, if a collection agency can afford to spend $1,000 to collect $1,000, then it seems to me the government should be able to pursue these cases. I am not saying they should be inhuman about it—there are circumstances where the person against whom the award is made can't pay it—but since the abolition of the debtors' prison there has been a significant procrastination, delay and evasion of their responsibilities.

I was surprised when this happened to my constituent because I thought the matter had been solved. As I said, my constituent got involved with doing all of the right things, then the legal aid certificate was refused so she couldn't process the matter. Finally, by some ad hoc, extraordinary way she is now pursuing it. She has a counsel acting for her and presumably it will get back on the road again, but this has been going on for something like at least a year.

Mrs. Campbell: One of the reasons I was anxious to see this changed was because the wife was required to make a sworn statement if the moneys had been paid into court under her directive. It wasn't the best evidence. She didn't know what was paid in; she had no idea. All she could do was take what the court said and then make a sworn statement.

I resented that on her behalf because if she were in a position where she was in receipt of the moneys that would be a different situation, but in the cases where people were on some form of assistance, her sworn statement to me was just not very acceptable. She didn't know. The money was, in essence, assigned or directed to be paid—I guess that's the correct legal term. She was not in receipt of any of the benefits from the order. They were paid either to Metro Toronto or to the provincial government.

I took exception, very strong exception, to that kind of procedure. If they are not following through on it, I think that is dreadful.

Mr. Acting Chairman: Any further questions on item 1?

Mrs. Campbell: I would like an answer.

Mr. Warner: It seems to me that it is the kind of thing we could deal with in the justice committee. It gives you an opportunity to sit down and discuss what you feel is important and what you have done, and we can hear first-hand from you. I'd like to see us do that.

Mr. Acting Chairman: Mr. Minister?

Mrs. Campbell: I would like some response; I can't understand. When we amend the legislation to make it really appropriate, is it a fact that these agencies are reluctant? If that is the case you can't blame the courts or anybody else. Automatic enforcement, as a matter of fact, came in after I was out of the court, so we were hoping it would come. It did not take place until later.

What has the Attorney General said to Mr. Norton about this? Everybody blames everybody else. They might as well blame themselves if they are responsible.

Hon. Mr. McMurtry: I think we both have made it clear that with additional resources we could be far more successful in our particular spheres of responsibility. We both require additional staff.

Mrs. Campbell: Why?

Hon. Mr. McMurtry: These things aren't spun out of air. These are the estimates of the Attorney General, so I really can't assist you very much with respect to the internal administrative procedures as far as the Ministry of Community and Social Services is concerned.

Under our legislation, they can pursue these orders. The honourable member herself just raised the question whether as judge she would be satisfied with a degree of proof. Each case would depend on its own facts as to whether the court was satisfied on a show-cause hearing that the money was owing and was in arrears.

Mrs. Campbell: The Attorney General reacted on it; don't misunderstand me. I just had misgivings about it.

Hon. Mr. McMurtry: It may not be necessary to have the wife there at all if somebody who has first-hand knowledge can say that the arrears are actually outstanding. But again, the honourable member is dealing with

a very large number of cases. It should come as no surprise to anyone here that we are both of the view that we would be more effective, in our particular areas of responsibility, with additional resources.

Mrs. Campbell: From my experience, a representative of either Metro or the provincial government would usually be in that courtroom. If they had the time to sit in that courtroom under the old procedures, where the wife had to pursue the matter, surely it doesn't require additional resources to have those people pursuing it. They have the time to be in the court to observe. Surely they could have the time to be in the court in a more active way.

It doesn't make sense to me that one can fall back on lack of resources in this case. I think the Attorney General can fall back on lack of resources in the procedures so far as show-cause is concerned.

Mr. Warner: I don't know who is responsible for this, Mr. Chairman. I'm going to leave it here; there is no point in flogging it any more. It's not just the $38 million which appears to be outstanding. It's what I take as the basic fact of it being a responsibility which isn't being lived up to. The public appearance given is that when you choose not to live up to your responsibility, no one is going to do anything about it.

In one case, I was so annoyed I was determined we were going to track it down and we did. We found the fellow who had a very good job, a management position in the civil service—in Ottawa you will be happy to know; it's not provincial—who was earning a very pleasing salary and just decided he wasn't going to live up to his responsibility.

Mr. Leal: And you couldn't garnishee him under the then state of the federal law.

Mr. Warner: No, that's right.

Mr. Leal: That's been changed. At the time you couldn't reach those fellows.

Mr. Warner: That's right. Despite anyone else's opinion, my opinion is that when you know who it is, and you know that the responsibility is clear, and you know there isn't some unusual circumstance to the contrary, if it is necessary you garnishee his wages.

Mr. Leal: Yes, but you couldn't in that case.

Mr. Warner: Fortunately, he ended up back in court.

Mr. Leal: We've got a matter of further business. Most of the downside on garnishment in this province, in this area of maintenance orders, is gone. We have attachment, which is a far more effective remedy than garnishment because you don't have to wait until the money is paid and then grab it. You can do it on a continuing basis and work it out with the employer that as and when the payroll is made up, X per cent goes to a satisfaction of the maintenance order and the man gets the rest.

Mr. Warner: Okay. I guess the word going out to the Attorney General this morning, at least from our quarter, is that somebody had better get tough and get some of this money collected, whether it's him or Mr. Norton.

The last thing I wanted to ask was—

Mr. Renwick: For what it was worth in the Ministry of Revenues estimates, not this year but not so very long ago, I said the problem is that there is money owing to the crown in a number of ministries, particularly to the Attorney General's ministry, for all sorts of uncollected funds.

They are not by instinct good collectors of money and the procedures are no good, but the Ministry of Revenue has the responsibility with respect to the revenues of the province. I tried to suggest that all claims—moneys owing to the crown by way of fines and by way of setoff in these family benefits circumstances and so on—should go to Revenue. They are separated entirely from the origins of the cases in which they are involved; it's simply a money claim owing to the crown, and they should be charged with the responsibility of collecting those funds.

I still happen to think that that's the best procedure. It doesn't muck up your ministry, the Ministry of Community and Social Services and the other ministries.

Mr. Leal: I suppose, Mr. Chairman, that that's an attractive alternative proposition except when one is faced with the prospect that in government matters departments of revenue—and I think not only this jurisdiction but all that I have any knowledge of—have no happier experience with debt collection than any other ministry.

Mr. Renwick: But it would be a specialized responsibility of theirs, which it isn't within these ministries; they are sort of diffused with other responsibilities.

I agree on debt collection; that's fine. If that's the world, then you write them off. We don't kid ourselves that they are owing. The motor vehicle accident claims fund was another perfect example of horrendous amounts of money, in theory—

Mr. Leal: Unpaid sales tax; the whole of it.

Mr. Renwick: All of it, yes.

Mrs. Campbell: Could I just ask if there is any way of ascertaining what the real amount outstanding would be if one took the cases into consideration? I don't know how many there are. My feeling is that there aren't too many where the balance has been wiped out or cut back or something. That always offended me, because it did seem that if people escape the system, why not? They were in fact excused. It bothered me. There have certainly been cases where a judge has reduced the outstanding balance.

I would like to know what the outstanding would be if those balances were incorporated in the amount outstanding.

Mr. Leal: I am not sure what it would be.

Mrs. Campbell: I don't know whether he can—

Mr. Leal: We can try.

Mrs. Campbell: But you do have the judges' orders—

Mr. Leal: The other side of the coin, of course, is that a defaulting husband faced with very, very substantial arrears is apt to throw in the sponge and say, "Look, I'm not going to make it anyway; put me in jail if you want to." Somebody says to the judge: "Why don't we forgive some of these arrears and make a new start? Perhaps don't forget them all, but put them on a basis where he can pay something." I do know of cases where that has been successful—where to wipe out the arrears means you go under completely. It's a judgement call, I suppose, for the judge to decide what he or she thinks is economically viable on the facts of a particular case.

Mrs. Campbell: It just seems to me that if somebody has worked up that kind of substantial arrears, he has thrown in the sponge at the beginning and not at that point. I would like to understand how those arrears have been built in cases of—

Mr. Leal: In case of illness or injured workman or something of that nature.

Mrs. Campbell: That's a different matter.

Hon. Mr. McMurtry: I just want to make this one further observation about the arrears that are outstanding. This is an internal thing which I think has to be addressed. A very large percentage of these awards were made in undefended divorce actions where the respondent did not appear. They virtually took a figure out of the air—it was of academic interest only—because the defendant did not appear. Millions of dollars of that sum is made up of awards against people when the court had no idea as to their ability to pay or anything else. They were orders that were obtained by default.

One of the concerns and one of the complaints that the family court bench feels very upset about is that these arrears represents a totally false picture of the true arrears, because so many of these orders were made on a default basis by county court judges and Supreme Court judges, where the plaintiff knew at the outset the chances of recovering these amounts was just illusory.

The family court judges are understandably very upset because they feel they have been sort of hung with the criticism that they have $38 million outstanding and that they are not acting effectively when a lot of orders were not worth the paper they were written on from the first instance.

What they want to do and what they have been trying to do, and this is an internal administrative problem, is amend a lot of these orders to have a more accurate picture. I can't tell you what percentage of that $38 million is represented. It's grown up over the years where from day one there was no expectation of anything but a nominal recovery.

Mrs. Campbell: It would be interesting. There must be a number built up at a time when salaries were reasonably low and where the awards—I can think of awards of $10 a week or something—might not have any reference to today's salary or anything. Both sides of the coin have to be examined.

Mr. Warner: If I could be permitted an instructional question: could you tell me what the relationship is between an extradition treaty and the Fugitive Offenders Act—if there is an interrelationship, or whether one supersedes the other?

[12:15]

Hon. Mr. McMurtry: The extradition treaty is entered into between various nations as an agreement on the type of offence for which they or we will extradite an individual back to the United States or back to Great Britain. There are treaties that are entered into between nations. So far as the Fugitive Offenders Act is concerned, Mr. Takach has reminded me it is really the same procedure. For Commonwealth countries it is called the fugitive offenders legislation and for non-Commonwealth countries it's called an extradition treaty. But the process is basically the same.

Mr. Warner: Under the Fugitive Offenders Act—I take it it's a separate act, even though it's essentially the same kind of thing as a treaty arrangement—is a hearing required?

Hon. Mr. McMurtry: Yes.

Mr. Warner: For practical purposes the same procedures are followed with respect to Commonwealth countries as would be followed with the extradition treaty, with whatever treaty exists between Canada and non-Commonwealth countries?

Hon. Mr. McMurtry: Yes.

Mr. Warner: Okay. That's my instructional question, and it's been answered.

Hon. Mr. McMurtry: It's instructional to all of us, I think.

Mr. Warner: If I keep this up I may get that QC.

You will recall at the very beginning I asked if we could know which royal commissions were in existence. I notice the amount of money is down considerably, to about half. I assume some commissions have run out or should run out during this 1979-80 estimate year and you're not anticipating more. Is that right?

Hon. Mr. McMurtry: One of the difficulties is that a certain arbitrary figure goes into our estimates every year for royal commissions because no one can really predict what commissions may be commenced during any particular year. Secondly, it may be difficult to establish the termination date because if it's a judicial inquiry, it's within the discretion of the judge as to how long the inquiry will last.

Take, for example, the Krever commission. It's up to Mr. Justice Krever to determine what period of time is necessary for him to conduct his inquiry in order to have the information he believes he requires in order to make a report. That's why a rather arbitrary figure is put in. It's a ballpark estimate.

Mr. Warner: What are the eight? There is the Krever commission. What are the others?

Hon. Mr. McMurtry: I am advised there are concurrently five active royal commissions. One is the Commission on Freedom of Information and Individual Privacy, the Williams commission, as it is sometimes known. They have commenced the writing of the report but we have been told it will probably not be in our hands until the spring.

There is the Royal Commission on the Status of Pensions in Ontario, sometimes known as the Haley commission, under Donna Haley, QC. She is writing her report, I gather, but she does not expect that it will be completed until next September.

There is the Royal Commission of Inquiry into the Confidentiality of Health Records in Ontario, or the Krever commission. They have recently begun writing the report and they have advised us that it looks like June 1980.

The fifth royal commission we're administering is the Judicial Inquiry into the care of Kim Ann Popen by the Children's Aid Society of the City of Sarnia and the County of Lambton. The writing of the report is under way and is expected in March 1980.

The other is the Royal Commission into Discounting and Allowances in the Food Industry in Ontario. I'm advised that the hearings and research have been completed and the writing of the report has commenced, but it's not expected before June 1980.

Mr. Warner: You listed five.

Hon. Mr. McMurtry: Five.

Mr. Warner: I've got the number at eight from somewhere. I guess I'm wrong.

Hon. Mr. McMurtry: There's the Fahlgren commission on the northern environment that has nothing to do with our ministry. You've already asked me about Dr. Daniel Hill's study. Some people call it a royal commission but it is not a royal commission. It is a study.

Mr. Warner: Does it come under that vote?

Hon. Mr. McMurtry: It would probably come under that vote, I would think.

Mr. Warner: That's probably where I got the number eight from.

Mrs. Campbell: Can I ask one final question? Is the Attorney General reviewing at all, as Attorney General, concerned with the protection of the public, the activity of the special branch of the OPP, which as I understand it deals to some extent with what could be called subversive elements in our Ontario society? Having in mind the commission dealing with the RCMP, has the Attorney General taken any cognizance of that, putting it into a provincial context, in so far as the activities of the OPP are concerned, not as Solicitor General but as Attorney General?

Hon. Mr. McMurtry: I'm not sure I understand the question, Mrs. Campbell. Any investigation by the OPP into so-called subversive groups would only—they would only be involved if they were investigating an offence under the Criminal Code. If it were a matter related to national security, the OPP would not be involved, as you know.

I'm not sure what precisely you meant.

Mrs. Campbell: A concern was expressed to me and I really was not aware of it. I think the branch is called SSBSIS.

Hon. Mr. McMurtry: The special services branch of the OPP.

Mrs. Campbell: Which is an intelligence branch.

Hon. Mr. McMurtry: That's correct.

Mrs. Campbell: The persons drawing it to my attention were concerned that they were engaged in somewhat similar activity to the Quebec situation. While I recognize that would be a police matter, it seems to me the Attorney General should have an overriding overview of any activity which seemed to be in the subversive area by the OPP.

Hon. Mr. McMurtry: The Solicitor General certainly is responsible—

Mrs. Campbell: I'm aware of that. But you should have an overriding—

Hon. Mr. McMurtry: My responsibilities, as a senior law officer of the crown, must touch on police activity if there is any information brought to my attention to indicate that this police activity is not being carried on in the public interest. There is no question that as Attorney General, I would have responsibility in that area, quite apart from whether or not another individual holds the portfolio of Solicitor General.

Mrs. Campbell: You are saying that you have no knowledge of any activity by this branch in this area?

Hon. Mr. McMurtry: I think it is public knowledge that there was an OPP investigation—I don't know where it stands—related to some alleged activity by the RCMP dealing with so-called subversive groups. I'm not sure if you're thinking of that.

Mrs. Campbell: The matter just arose this week and the details have not been given to me yet. I stated I would pose the question and if further information suggested that such activity as went on in the province of Quebec was going on here I would be concerned as would the Attorney General. You can assure me; at this point I won't belabour the question.

Hon. Mr. McMurtry: I can't tell you on a day-to-day basis, nor would I want to be in a position to tell you on a day-to-day basis the nature of the intelligence-gathering efforts of the OPP. I don't feel they should say we have to give them certain independence but we don't want them to think we are monitoring their day-to-day activities, which might create the wrong impression.

In view of the concerns expressed today I will make inquiries and if there is anything I don't know that I feel is relevant to your question, I will respond during the Solicitor General's estimates.

Mr. Lupusella: Mr. Chairman, I have a question for the Attorney General. Is there any way to find out if the OPP has made any presentation or is going to make any presentation before the McDonald commission in Ottawa? Did the OPP receive notice that they must provide evidence about something into which the commission is inquiring?

Hon. Mr. McMurtry: I am not aware of any presentation made or planned by the OPP.

Mr. Lupusella: This is certain: you are not aware.

Hon. Mr. McMurtry: I would think I would be aware if it had occurred. As a matter of fact, I am almost certain I would be aware of any planned presentation. We are still waiting for some information in relation to the evidence given in camera before the McDonald commission. I have made it known publicly that I am not particularly happy with the way in which the McDonald commission has carried out its responsibilities, in view of its reluctance to share this evidence given in camera with provincial Attorneys General. In so far as the evidence related to activities in our own province is concerned, I think I have expressed my concern in fairly strong terms.

Mr. Lupusella: Nothing is happening?

Hon. Mr. McMurtry: In the fall the federal Solicitor General gave a public undertaking to provide me with this information in so far as it related to Ontario. I am not yet in receipt of this information, but he has made a public undertaking to give it to us and I would expect if we have not received the information fairly shortly, we want a good explanation as to why not.

Mr. Lupusella: When you receive this information, are you going to share it with members of the House or are you going to consider the content quite confidential; just for your ministry?

Hon. Mr. McMurtry: Until I see the information, of course, I am not in a position to speculate as to what extent it can be shared with the members of the House. As you know, in confidential police investigations, for example, generally speaking it is important in the public interest, to keep this information confidential in order to protect innocent people. Obviously there will be certain questions of interest to the members of the House. There are certain aspects of this information I would probably want to share with the members of the House. But until I know what it is I can't state it any more clearly than that.

Mr. Lupusella: Do you have any idea when you might receive this information?

Hon. Mr. McMurtry: Not at the moment. I should have been more specific, perhaps. The federal Solicitor General did not want to hand over the information until the McDonald

commission had completed its investigation into the specific areas.

They didn't want to hand it over to us piecemeal, because that would be quite unfair to the individuals involved if more evidence came out later related to a particular incident. He wanted the hearings to be completed to the point where they could say, "That is all the information we are going to get in this particular area." Otherwise a provincial Attorney General might be in a position where he is asked to act on incomplete information with respect to a particular activity.

I don't know, and I don't think the federal Solicitor General knows, just when the McDonald commission will have concluded its hearings in relation to specific activities of the RCMP in Ontario. He himself did not know what that date would be when we last discussed it. He didn't expect it to be in the too-distant future. We will try to find that information.

Mr. Acting Chairman: I wonder if we can carry item 1. Do you have a question, Mr. Renwick?

Mr. Renwick: I just want to ask if some information will be available on the next vote.

Item 1 agreed to.

Items 2 to 5, inclusive, agreed to.

Vote 1401 agreed to.

Mr. Renwick: If the crown attorney appearing before the court in the Albert Johnson case made a statement outside the court with respect to the matters in the court, I would like to have the exact wording of that statement.

Hon. Mr. McMurtry: I think I can tell you now, Mr. Renwick, quite emphatically, that he did not make a statement outside the court.

Mr. Renwick: The only statement he made was the statement in the court.

Hon. Mr. McMurtry: That is my understanding and I will just verify that.

Mr. Renwick: Will you verify it, because the press reports were ambiguous as to where the statement was made?

Hon. Mr. McMurtry: As I say, I am virtually certain—but I want to be 100 per cent certain—the only statement made by Mr. McLeod was in the courtroom.

Mr. Renwick: If you would verify it; that is why I wanted to ask the question before the luncheon recess.

The committee recessed at 12:35 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Attorney General

Third Session, 31st Parliament
Wednesday, November 28, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Hansard subscription price is $15.00 per session, from: Sessional Subscription Service, Printing Services Branch, Ministry of Government Services, 9th Floor, Ferguson Block, Parliament Buildings, Toronto M7A 1N3. Phone 965-2238.

Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 2:16 p.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(concluded)

Mr. Acting Chairman: With the committee's approval, we will deal with Bill Pr30, An Act to revive South Russell Holdings Limited on Friday, December 7. Agreed?

Mrs. Campbell: I suppose so, except that our Solicitor General is not here and it is his estimates which are scheduled for that time. However, I think the committee has to function apart from that, but I just issue that caveat.

Hon. Mr. McMurtry: Were you discussing the hours? I missed that.

Mrs. Campbell: No, there is a private bill they want us to take on Friday, which is at the time of the Solicitor General's estimates.

Mr. Rotenberg: We can get it done between the time the House adjourns and the time the Solicitor General comes in.

Mrs. Campbell: For your information, the Solicitor General and I were here at the proper time this morning. We didn't have a chairman and we didn't have any other members at 9:30.

Mr. Acting Chairman: We are on vote 1404.

On vote 1404, crown legal services program:

Mrs. Campbell: Mr. Chairman, when I opened my remarks at the beginning of this session I made reference to my concerns about the power of the crown attorneys. I was challenged on the matter by the Attorney General. I did explain that in one part the discussion was out of context in that I was relating it to the two functions of the Attorney General.

I am not going into the matter which alerted me and caused me grave unease. I think the matter has been put very clearly by someone who is accepted as an experienced defence counsel, although I think he's played other roles.

I would commend to anyone on this committee a very useful book for discussion by a justice committee, the Law Society of Upper Canada's special lectures for 1979 dealing with the abuse of power. I hope the Attorney General has had occasion to read it in depth. It isn't confined to the abuse of power by police or by crown attorneys but has a broad coverage of things such as hospital board privileges and so many other areas which have caused concern to those of us in the assembly over the last few years.

Hon. Mr. McMurtry: The only observation I might have is that I think the law society perhaps was unwise in not inviting experienced crown counsel to participate in those portions of the lectures related to the prosecutorial system. I think it was poor judgement on their part, quite frankly, not to have invited experienced counsel to have participated in that.

Mrs. Campbell: Mr. Chairman, I took the opportunity of alerting Mr. A. Campbell to what would be the thrust of this discussion and specifically referred him to the one article by Morris Manning, QC.

[2:15]

Another article which is in a sense a concomitant piece to my concerns is that by David Humphrey, in the same volume on abuse of power. I don't know whether it's about abuse of power of or by the police.

What I think I want to get at is this. Historically we have to recognize the role of the crown attorney in connection with the geography of the province and the lack of adequate transportation systems, therefore we developed a system whereby the Attorney General was aided by persons appointed, as I understand it, originally by the Lieutenant Governor in Council for local purposes. As of now, the crown attorneys are, as I think we all accept, employees of this ministry.

One of the things which has caused me concern seemed to me to be apparent, and is borne out by Mr. Manning's statements, although in fairness Mr. A. Campbell takes heated opposition to the statement. What seemed to me to be occurring over the years was that the crown as I knew it in the early days, and it seems almost historical now, took a position very much as suggested by the late Henry Bull, who was I'm glad to say a friend

of mine among other things, and a person whom I think has been recognized as outstanding in his own field.

Mr. Bull makes it absolutely clear in his statement, just what the role of a crown attorney is. He makes it abundantly clear that the crown does not come in to the process, or should not come into the process, until the investigatorial aspects have in essence been concluded.

"In Henry Bull's words," is the way in which Mr. Manning introduces it on page 579, "the crown attorney is not a law enforcement officer; that is a policeman's function. He is not a gangbuster, nor is he bent on ferretting out the lawbreaker and bringing him to the bar of justice.

"He has no investigatory staff of his own, and although he necessarily works in close conjunction with the local police in the preparation of cases and their prosecution to a proper conclusion, he has no jurisdiction or authority over them. He may, and quite frequently does, give advice to persons, including police, who wish to lay charges, as to whether a criminal offence is disclosed by the facts, whether a prima facie case is made out and whether a prosecution is justified."

That, in essence, is the role that I understood. In the Boucher case we have the statement which has made it clear that the crown attorney is not appearing in court to win or lose a case but is basically there to present the best possible case to assist the court, and of course, must in effect give to the proceedings that degree of dignity which is necessary in the total administration of justice.

I'm not saying that for the benefit of the Attorney General but rather for the benefit of those who may not have understood exactly the difference in the roles.

When we look at what Mr. Humphrey has said, in part only, referring for example, to what Mr. Manning also refers to as overcharging by the police, we begin to see a little bit of the cut and thrust of the responsibilities of the crown attorney vis-à-vis the prosecutions, and of course Mr. Manning —and this is the point to which I believe Mr. A. Campbell takes grave exception—Mr. Manning makes the clear statement that about 10 years ago there was a change in the role of the crown attorney, probably as a result of the concerns about electronic surveillance and that sort of thing, whereby at least in his opinion, and certainly in my perception in part, as he sets out his conclusion on page 589:

"An area of abuse of power arises where the prosecutor assumes the role of his American counterpart, the district attorney. About 10 years ago, with the advent of increasing paranoia on the part of certain police forces, increased surveillance by means of wire tapping and other electronic gadgetry was utilized in an attempt to obtain evidence, firming up police suspicions of illegal activities. The practice of seeking advice of the prosecutor and then carrying out the investigation in accordance with his directions, found the prosecuting counsel taking an active role in the investigation of crime at its most preliminary stages."

I think that is the place at which I want to express my deepest concern. I could not conceive of this kind of relationship as I knew it in my early days in the profession.

As I say, in fairness Mr. Campbell has privately denied to me that is in fact a role which is being played, but at least I think it's pretty clear that in the public perception there is a very real concern that our crown attorneys have become more and more akin to the district attorney in the United States, where of course traditionally they have played almost a dual investigatory role with the police, often directing the investigation, as I understand it from my limited knowledge of the role of the district attorney in the United States.

Perhaps Mr. Humphrey's statement is the one which draws attention to the two areas. Mr. Humphrey makes this statement, which I think is an important one. It is only an observation of his, I may say, but it strikes at the core of what I see happening, not only in the clogging up of our courts but generally in the full police situation.

What he is saying, if I may paraphrase it, is that police carry out, in essence, the societal role of our time. He makes specific reference to violence in a community leading to a more violent type of police operation. His conclusion is that a wise society does seek to bridle police powers. He said:

"The police, like laws, reflect the nature of society which they serve. Corrupt societies deserve and get corrupt police; totalitarian societies acquire omnipotent police; violent societies get violent police; tolerant societies get tolerant police; wise societies bridle police powers."

If one looks at the assumptions which are made, certainly by Mr. Manning, one has to look very closely at the role of the crown. In particular, let's take a look at one aspect of overcharging by the police, that is, the role of the crown in advising in cases. We all know the role of the crown in the past in

advising the citizen as to whether or not a complaint or a charge is justified. What is its role where police appear to be overcharging and the crown appears to be taking no part even in advising on such occasions?

The Attorney General has on many occasions in our court system, where we're talking about the overloading of the courts, referred to the role of defence counsel exclusively. What is the role of the crown in such cases? We recognize that if one has a series of charges we get into the plea bargaining situation, but what is the role in the beginning? What is the relationship today between the crown attorney and the police force, particularly in the Metropolitan area? Has there been a change? Is it only a change in public perception? What is the Attorney General's answer to that?

[2:30]

Hon. Mr. McMurtry: First of all, I haven't read Mr. Manning's article or Mr. Humphrey's article, but I look forward to doing that on some occasion, as some of the statements that were attributed to them have been brought to my attention. I simply state it would have been helpful for the people attending those special lectures and they would have had a much more accurate picture as to what does go on if they had bothered to invite some senior members of the crown counsel's office.

The role of the crown attorney as one who carries on very important professional responsibilities, independent of the police, is still fundamental to the role of the crown attorney today.

I would like to make a couple of general observations because you talked about public perception. I don't know what that means, except to say certain people may say public perception is this, while other people may say that public perception is the opposite. One indicium of the confidence many people in the profession have in relation to crown counsel in this province is in relation to some of the crown counsel who have been appointed provincial court judges. Those crown counsel would not have been appointed provincial court judges unless I was satisfied that the local profession in the area would be very supportive of these appointments because one who has prosecuted cases exclusively for the crown and then moves on to the bench might create the perception he is overly prosecution-minded, and might have some biases he would bring to the exercise of judicial responsibilities.

I can't be precise about the number of crown counsel but I am pleased some have been appointed across the province as the result of very strong support from local defence bars and local bar associations. I think that's one indication in areas of the province that the fairness with which crown counsel go about their day-to-day duties is obviously recognized.

As a preliminary observation, I would also like to say there is nothing in the statement of Mr. Henry Bull I would disagree with.

Mrs. Campbell: Nor I.

Hon. Mr. McMurtry: As a matter of fact, I guess Mr. Justice Patrick Hartt, Mr. Justice O'Driscoll and myself were the first part-time crown attorneys to be appointed by Mr. Bull in this area.

Mrs. Campbell: It is human to err.

Hon. Mr. McMurtry: So I have some personal experience with working with Mr. Bull and also as defence counsel in many cases Mr. Bull prosecuted. The relationship of crown counsel in this province is in no way to be confused with that of district attorney. As pointed out by Mrs. Campbell, district attorneys—at least, in my perception—play some sort of investigative role in directing police as a normal event on a day-to-day basis.

Obviously, in some cases, particularly when dealing with organized crime, it is essential that police have accessibility to experienced crown counsel to assist them. I have said publicly, on more than one occasion certain crown law officers were in constant communication with some of the joint force operations in relation to the fight against organized crime in Ontario, as obviously some of these leading criminal figures carry out their criminal activities in a fairly sophisticated fashion. By reason of wiretap legislation, it is necessary for police officers to consult with crown counsel to get advice as to when it would be proper to apply for an authorization. As you know, under this legislation all other methods of investigation have to have been reasonably exhausted before an authorization will be given. To that extent, the crown counsel have an obvious responsibility to consult with police.

In the whole area of commercial crime, there is no comparison today to what was happening when I was called to the bar—as recently as that—in the various methods that are used. In that area, even experienced police investigators must consult with crown counsel before the charges are laid. There are other serious criminal cases where it is necessary for them to seek legal advice.

In relation to the multiplicity of charges that are sometimes laid, we have been working very hard in the last four years, during

my tenure, to make crown counsel available to police officers prior to laying the charges in order to avoid the unnecessary laying of additional charges. When police officers don't have access to crown counsel, which often they don't, unfortunately—we would like to have more crown counsel just so there would be more accessibility—they may not know what charges to lay and may lay several charges just because they haven't had access to the proper legal advice.

We're very concerned about unnecessary charges being laid because there is no question but that clogs the courts and unnecessarily complicates matters. In the best of all possible worlds, I would like to have many more crown counsel in the busy areas of the province just to have the opportunity to sort out some of these charges at an earlier stage in order to avoid multiple charges.

I find rather curious some of the rather extravagant statements made by Mr. Manning and Mr. Humphrey with respect to crown counsel not working closely with a case, on the one hand, while they complain, on the other hand, about the laying of unnecessary charges, which in many cases would have been avoided if crown counsel and police had conferred before the laying of the charge. They can't have it both ways.

Mrs. Campbell: I think you should exempt Mr. Humphrey from that. He has talked about the abusive power in the sense of the multiplicity of charges. It is Mr. Manning who deals with the relationship of the crown attorney.

Hon. Mr. McMurtry: Yes. As far as crown counsel are concerned—not that they have to be reminded by me—on many occasions I have had an opportunity to reflect on their professional responsibilities vis-à-vis the police. They always work very hard to avoid any perception, quite apart from reality, that they are being manipulated by the police in relation to the laying of any particular charges.

I said at the outset the crown attorney system since its inception has never—and it's close to 25 years ago since I first started appearing in our provincial courts—been as well served as it is today, with the high calibre of young male and female lawyers now available to the crown attorney system.

In earlier days, the crown attorney's office was regarded as a place to pick up two or three years' experience before going into practice. I'm not saying there's anything essentially wrong with that. David Humphrey was a close friend of mine. He was a crown counsel for several years before he went into private practice. It's probably desirable to have some mobility in that respect, but the system is made up largely of individuals who have made a very serious career commitment to serving as crown counsel, crown attorneys and assistant crown attorneys. We are attracting a very bright group of young people, particularly in recent years.

[2:45]

Mrs. Campbell: There is no question about their brightness.

Hon. Mr. McMurtry: While, occasionally, even the best of counsel can become a little overly enthusiastic in the conduct of a case, because the adversarial process does bring out certain competitive instincts from time to time in the heat of battle, simply as a human reality, I am well satisfied our crown counsel are well aware of their responsibilities, particularly as they relate to being fair and just.

They know they do play a quasi-judicial role in many respects, particularly when it comes to determining whether to proceed with a case or not. The underlying principle of their conduct is fairness in prosecutions. While there may be certain cases that may not always meet the level of conduct we think desirable, I think they do very well indeed.

Mrs. Campbell: I take it, in effect, from your answer you are somewhere in between Mr. Campbell and Mrs. Campbell in your observation.

Hon. Mr. McMurtry: I don't know what Mr. Campbell has said to Mrs. Campbell. Maybe we'd better let Mr. Campbell have an opportunity to speak.

Mrs. Campbell: The only reason I referred to Mr. Campbell was he did make his position clear to me, and I didn't want to be unfair in any way in anything I said here. It seemed to me that the Attorney General himself, in referring to commercial crime and other such crimes, in some part indicated a new role, as Mr. Manning suggests. That may not be fair, but I thought that's what the Attorney General was saying.

Hon. Mr. McMurtry: I didn't say a new role.

Mrs. Campbell: A changing role or something.

Hon. Mr. McMurtry: The challenges today are considerably different to what they were 20 or 25 years ago when I first encountered the system.

Mrs. Campbell: Exactly.

Mr. A. Campbell: I hope I didn't give you the wrong impression when I was speaking

to you. Of course I agree with what Mr. Bull said. My disagreement with Mr. Manning was partly in relation to some other passages in his article.

Mrs. Campbell: To which I've made no reference.

Mr. A. Campbell: The point with which I took issue is not the fact, particularly in the area in which I'm most familiar, commercial crime that there has been more contact between the crown and the police in the investigative stage, as has been indicated by the Attorney General. The point with which I took serious issue was the suggestion by Mr. Manning that somehow the relationship between the crown and the police had changed. It was my point that the professional relationship between the crowns and the police has not changed.

If there is any suggestion in Mr. Manning's article, as I think there is, that somehow the role of the crown in relation to a criminal prosecution has changed or that the role of the crown in relation to the police has changed since the time that Mr. Bull laid down those principles, that is a suggestion with which I take strong disagreement.

I do recognize an increasing contact between the crown and the police, particularly in areas of commercial crime investigation, when there could be a very complex investigation that could last a couple of years. There has to be some contact between the crown and police during that period of time in relation to the accounting information, search warrants to produce more evidence and all that range of activity. I didnt mean to deny that was taking place because it is taking place.

I simply meant to indicate the role of the crown vis-à-vis the police has not changed and that there has been no departure from the principles established by Mr. Bull or reflected in Mr. Bull's statement.

Mrs. Campbell: May I then continue because the Attorney General has himself referred to the quality of our young prosecutors? On page 587, Mr. Manning makes a statement. I may say I'm developing this from Mr. Manning rather than Mr. Humphrey because Mr. Humphrey's statement as it appears is taken from notes and not from a prepared text, as I understood it. My understanding is that Mr. Manning's statement is from a prepared text.

On page 587, referring to the Caccamo case, he relates a statement by Mr. Justice Spence in that case: "It is regrettable that the crown attorney in this particular prosecution seems to have paid scant attention to Mr. Common's very well-known statement. I am of the opinion that it is not sufficient to toss the matter aside so casually as counsel for the crown does in his factum to this court in the words: 'Although it is conceded that it may have been better under the circumstances of this case for the crown to have made pre-trial disclosure of the fact that the police had learned of the accused's possession of exhibit 5.'"

Mr. Manning goes on from that particular statement to this: "The influx of young, bright, energetic prosecutors into the system, unfortunately, has not been accompanied by a proper period of acquiring those traditional values concerning the role of crown counsel, which values are of vital importance to the prevention of abuses of power. When one wishes to 'obtain' a conviction, one has a natural desire to hold back information from the defence lawyer."

Then there's a considerable further development of that. If one wanted to, I would certainly read it into the record. I don't think this is an unfair point for me to stop at and examine what he is saying.

The reason I have become very concerned is that we have seen what seems to me without statistical reference an increasing number of cases where, following a complaint by a citizen against the police, charges are laid which appear to be pursued vigorously by the crown. I wonder to what extent the crown is really becoming something other than a crown in the traditional sense in cases where the pursuit of the citizen seems to have been in some ways unrelated to the actual situation.

We get these assault charges or obstruction of justice charges against a citizen who has had the temerity to make a complaint against a police officer or officers. It's all tied together, in my mind, with this changing role. You say there isn't a changing role and you are the expert. I am not. It is this relationship that I'm speaking about, a public perception (a) of the police and (b) of the crown as being part of this overall system.

Hon. Mr. McMurtry: I think you've suddenly touched on another topic.

Mrs. Campbell: It's quite a part of what I was trying to get at.

Hon. Mr. McMurtry: In relation to the allegation the police lay charges against citizens who complain of their conduct, are you suggesting you have information to suggest that crown counsel have ever encouraged police officers to lay these charges?

Mrs. Campbell: No, I'm not suggesting they have encouraged them.

Hon. Mr. McMurtry: Or aided or abetted them in any way?

Mrs. Campbell: No, I have not suggested that. I am suggesting their role in counselling seems to be not the same role as the role in counselling a citizen who wishes to proceed. Their role in pursuing the charges in the courts seems to be a very active role and a very determined kind of role in the courts themselves.

Hon. Mr. McMurtry: Certainly I have always encouraged the crown counsel to prosecute their cases vigorously but fairly.

Mrs. Campbell: That is the difference, yes.

Hon. Mr. McMurtry: Mr. Campbell might wish to reflect on some of the comments you attributed to Mr. Manning in relation to the Caccamo case, particularly as Mr. Campbell, I believe, was the counsel on the appeal both to the Court of Appeal and the Supreme Court of Canada.

Mr. A. Campbell: I would point out that the passage which Mr. Manning quoted is a passage from the dissenting judgement of Mr. Justice Spence. The judges in the Court of Appeal did not agree with Mr. Justice Spence. The majority of the judges in the Supreme Court of Canada did not agree with Mr. Justice Spence. I think Chief Justice Laskin may have joined him in the dissent but, as far as that particular passage is concerned, that was very much the minority view.

The conduct of the crown at trial in that case was subjected to the most searching scrutiny possible both in the Court of Appeal and in the Supreme Court of Canada. The accused was represented by one of the finest counsel in the country. Nothing that could have been brought forward against the crown was neglected. In light of all that, the three judges—there was dissent at another point—in the Court of Appeal and six or seven judges in the Supreme Court of Canada simply disagreed with the manner in which Mr. Justice Spence in that case applied the principles to the evidence. The majority found there was nothing to it. They just disagreed with Mr. Justice Spence.

Mrs. Campbell: Let me proceed further with this statement immediately following where I left off. "When one wishes to convict rather than minister justice, one has a tendency to have a trial, despite hardship to the witnesses or victim. When one seeks to 'win' rather than present a case, one listens to police rather than one's own judgement." [3:00]

Mr. A. Campbell: If I can just comment briefly on that quotation, "when one seeks to convict rather than minister justice," that phrase contains a false dichotomy. It suggests that there is somehow something inconsistent between convicting and ministering justice. If the crown is of the view that the evidence is there to support a conviction and that it is a case in which a prosecution should properly be brought, then it's the duty of the crown within the traditional bounds to present that evidence. If the crown doesn't want a conviction, the crown shouldn't be in court.

There is the very oft-quoted dictum from Mr. Justice Rand in the Boucher case, and there was a case called the Hartnett case, reported around volume 14, Canadian Criminal Cases, second series. It's not reflected in the judgement of Mr. Justice Hughes, but during the course of argument defence counsel went into that dictum in relation to alleged unfairness in a particular case and some another aspect that was pending before courts. I won't comment upon the evidence. Mr. Justice Hughes stopped counsel and said he had always disagreed with that dictum of Mr. Justice Rand if it purported to mean the crown shouldn't present the case with all the vigour it properly can. The point is if the crown doesn't think it's a case where a conviction should be registered, obviously the crown shouldn't be in court. There are some cases that are prosecuted with more vigour than others.

May I also refer to what Mr. Justice Haines said in the Lalonde case, which is reported in volume 15 of the Criminal Reports, new series, at page one. After quoting what Mr. Justice Learned Hand said in Garrison versus USA, Mr. Justice Haines said one should not equate a weak crown attorney with a good lawyer. A crown attorney is under an obligation to be as vigorous as one can be because one is representing the community, there is an interest in the prosecution of crime and the bounds of fairness are pretty clearly laid down. In my experience, the crowns of this province go to great pains and take a great deal of care to keep themselves within those bounds and take them very seriously.

Mrs. Campbell: I don't think anyone would suggest a crown should not pursue his case vigorously. That is not part of what I had in mind. It is the terms of reference within which he is pursuing his case. The American system is without question for the most part one in which the prosecutor has to "win" cases, because in some cases he has got to go to the people to be elected on the basis of how many cases he has "won."

If, however, the context is that one pursues vigorously to "win" in that sense, rather than to present with vigour, that is the point at which I am perhaps at odds with Mr. Campbell. I am of the opinion the role of the crown is to pursue the matter vigorously if he believes that is what ought to be done, but not with a view in the adversarial system of building up some kind of record of wins. That is the point. Perhaps it's intangible, but it seems to me to strike at the essence of the role of the crown.

Mr. A. Campbell: I agree. In my experience, the crowns in this province are well on the right side of that line.

Mrs. Campbell: Having had this discussion, I think I will then present those cases which have troubled me. I had wanted to do that at an earlier stage. One in particular that I did give to you seems to be under some dispute between us. I am attempting to obtain a statement—hopefully, sworn—on that particular case. I have given you one case which I don't know whether you've yet been able to locate. There is now a series of them where it would appear that at least there is evidence of the crown's pursuing them in an unusual way in my view. There are matters which are before them where I wonder to what extent you yourself could be convinced that there was an appropriate pursuit of a matter. It is where the police are concerned that troubles me, and it troubles me greatly still. I'm delighted, if I may say, at least to have on my side statements by people of the reputation which I hope one concedes to Mr. Manning.

Mr. A. Campbell: I don't concede the accuracy of a great number of statements he made in his article.

Mrs. Campbell: You may not concede the accuracy, but you do concede his reputation in the profession.

Mr. Leal: It wasn't said whether that reputation was good or bad.

Mrs. Campbell: Are we now going to get into that? I'd be delighted if Mr. Leal wishes to pursue that. I was accepting the fact he was an experienced counsel and that he was making his address under the aegis of the Law Society of Upper Canada. I don't know whether that's in any dispute or not. That's the position he's taken. He has indeed opened some very serious questions in my mind. They are matters about which I did not have any specifics at the time I expressed my original concerns on the basis of the cases I had, many of which are still before the courts and many of which I can't publicly discuss.

Mr. A. Campbell: If those cases can be brought to our attention, they will be looked into.

Mrs. Campbell: At least some of them are here and others will be brought to your attention. Nobody has really answered one concern, that is, the statement that there is not time for the young, bright, energetic prosecutors being brought into the system to have as an accompaniment to that a proper period of acquiring those traditional values concerning the role of crown counsel, which values are of vital importance to the prevention of abuses of power. Is there any dispute about that statement?

Mr. A. Campbell: I must remember I'm a public servant. Absolutely, there is a dispute, I think, as far as the educational process for crown attorneys goes. Mr. Takach can give you a pretty clear rundown on what crown attorneys are given when they come into the system. Maybe 10 or 15 years ago, there wasn't a great deal, but now there is a very elaborate progression. There is a series of three different levels of courses for crown attorneys and assistant crown attorneys who are just coming into the system. The most experienced and skilful crown attorneys in the province are brought in. There are three or four courses a year—Mr. Takach can give you more detail on it—to instil those very things that are allegedly found wanting. There is a very conscious attempt to do that very thing which is set up against us in that article.

Hon. Mr. McMurtry: We also invite senior defence counsel to participate in these seminars.

Mrs. Campbell: I think that would be a very helpful exercise. Did Mr. Takach want to say anything further?

Mr. Takach: I don't know whether Mr. Manning is referring to education or not. It's difficult to know what he means by that statement because, if I may say so, it is rather vague. If he is referring to education, as Mr. Campbell pointed out, there are summer courses of three weeks every summer at three different levels where crown attorneys of different experience go.

Courses are put on by the Federation of Law Societies of Canada which is the association, as you are aware, of law societies right across Canada. Crown attorneys are regularly sent to these courses. They take place in Ontario, Vancouver or the Maritimes. We send 10 or 15 a year to those courses which are balanced about 50-50 as between defence counsel and crown counsel.

We have at least one but usually two meetings of the crown attorneys' association each year. These are more than annual meetings. They include educational courses. We just finished one in the second week of November, at which time there were seminars on current problems in different areas of the law.

There is certainly no shortage of educational facility available to crown counsel who join the ministry.

Mrs. Campbell: Would it perhaps be a useful exercise to have this particular paper referred as a matter for discussion at some future conference of crowns?

Mr. Takach: Mr. Manning's article?

Mrs. Campbell: Yes.

Mr. Takach: I can assure you that Mr. Manning's article has been the subject of substantial discussion already. If Mr. Campbell's reaction was not violent, I can assure you their reaction was most violent and they were most upset over it. I can tell you they disagreed substantially with it and they think it is riddled with inaccuracies.

Mrs. Campbell: It is always a difficult thing when one adopts a position of this kind when we don't have either of the parties before us to make their case. In a sense, we have one of the parties represented, but not the other.

Mr. Takach: I can assure you, as Mr. Campbell has said and the Attorney General has said, we would have welcomed the opportunity to participate in that program. Both Mr. Campbell and I have been assured by Mr. Paul Williams that it was purely an oversight and that he did regret the fact there was no participation by crown counsel.

Mrs. Campbell: It sounds like that famous Churchillian phrase, "Some chicken! Some neck!," if I may say so, rather than an oversight.

Nevertheless, I am of the opinion there is a great deal in this article which requires a further look. Perhaps only in the cases that I give to you will you be able to address it, but I have not withdrawn my concern one iota. I can't at this point.

Mr. Renwick: I want to deal with two or three specific matters and I want to do so within the framework of the role of the crown attorney. Leaving aside the political dimension of the role of the Attorney General, I view the role of the crown attorney as being an equally sensitive position in the administration of justice, very much in the way I spoke about the role of the Attorney General on November 14 last. The crown attorney, by the very nature of our institution, is the centrepiece that has to relate to all aspects of the administration of justice in this province. His role relates to the defence counsel and, in some cases, to the accused person. It relates to the bench and must relate, of necessity, to the police. Often it has to relate to various other aspects of the administration of justice. It's this very sensitivity that causes those of us in opposition from time to time very real concern that the quality is very high. I recognize it is, and I pay my tribute to it. I haven't had much experience at it, but I have never had any real sense of any crown attorney either abusing his position as a stepping stone towards something in the future or not dealing adequately with the circumstances in which he was placed.

The problem is somewhat the reverse. If within the priesthood you have a special order, then you have the pride and the sense of coherence in elitism which has its own hazards, although it's an essential merit for performing the role in the detached objective sense it has to be performed.

Having made that brief excursion into my version of the role of the crown attorney and the sensitivity of it, I believe this is the appropriate vote under which to raise three matters of concern to me. I have not commented on the case of Alderman Wardle during the time it was the subject matter of questions by the member for York Centre and the member for St. George in the Legislature and on other occasions.

I had the opportunity to read and reread the brief transcript of that case. I need not make the obvious comment that I happen to think Provincial Judge Addison is one of the wisest and, if I can use the term in the positive sense, one of the most street-wise judges on the bench. He is a man who administers justice wisely and extremely well. I say that from personal experience, having been before him, not only in my professional capacity but in another rather unusual capacity, for which, of course, I was acquitted. Just as an aside, it was one of those strange companies in which I suddenly ended up as being the only person available to be charged with failure to file income tax returns. He took his usual wise and humane view that someway or other I was not going to be convicted of that particular offence.

[3:15]

What came through to me had nothing to do with the remark made by His Honour at that case. But I had the sensation that the net effect was that Mr. Wardle was awarded

a punishment, light as it may be within the scope of punishments available to the court, on a charge for which he was not arraigned. That is the fundamental thing which bothered me about it. I had the impression on a simple assault charge the accused person, having pleaded guilty, would likely be awarded an absolute discharge. In re-reading the transcript I had the sensation it was the inability of the court to get a statement from the crown attorney in somewhat the usual form, "The facts of the case, Your Honour, are substantially these," and so on. That led to the problem.

I'm concerned whether in that case—and I say this with great diffidence—the crown attorney did act correctly in not responding to the bench in the question His Honour put to the crown on two or three occasions during that interchange. I wonder if the Attorney General would have any comments to make about my assessment of that incident.

Hon. Mr. McMurtry: I don't have the transcript immediately before me, but I've read it on more than one occasion. I don't know whether Mr. Renwick was here when Mr. Stong was commenting on the Wardle case.

Mr. Renwick: Very briefly, but he seemed to be commenting on a different aspect of it.

Mrs. Campbell: It could lead to some further information that was denied to both of us.

Mr. Renwick: I wanted to limit my remarks to the transcript.

Hon. Mr. McMurtry: It was not denied to anybody. Mr. Stong was very concerned. He wanted to be assured the conduct of crown counsel was proper. Because of his concern, he took the opportunity to discuss it with Mr. Takach and the director of the criminal law office, Mr. McLeod. Mr. Stong said for the record he was perfectly satisfied the crown counsel had conducted himself quite properly.

Mr. Renwick: I was here when he said that.

Hon. Mr. McMurtry: I don't know why Judge Addison was asking the questions he was. It's difficult to know how else the crown attorney could have responded. In any minor criminal case on plea of guilty, there are certain facts admitted and certain facts not admitted. I have difficulty understanding why Judge Addison, because of his great experience as a very senior and able judge, would have wanted to pursue the matter when the crown counsel had made it very clear on a plea of guilty these were the facts admitted by the accused.

The judge may have been curious about other facts or circumstances that may have led up to the alleged common assault, but in every case there may be facts alleged not admitted to by the accused. Again, we're talking about a charge of common assault. That was the only charge laid, as I know Mr. Renwick appreciates.

Given the circumstances, I don't know what else the crown attorney could have done. His choice of words might have been a little better, but clearly his choice of words meant to me: "Your Honour, these are the facts being admitted. There may be other circumstances of interest to the average observer, but for the purpose of this trial, these are the facts the defence has admitted."

Mr. Renwick: That's my point. Instead of that brief narrative description you usually hear when you're standing in the court, divorced from the legalities in a sense, because generally there's not an argument about the summary statement the crown uses to inform the court of the circumstances, perhaps at that point, when the persistence of the judge made it necessary, a clear statement might have answered the question.

Hon. Mr. McMurtry: On the spur of the moment, the crown counsel's reply was adequate. However, given the power of hindsight and all the controversy that arose, it might have been better if he had made a statement to the effect: "Your Honour, these are the only facts admitted by the accused. These are the only facts really relevant to the charge of common assault. These are the facts on which the charge is based. Your Honour has all of the facts relevant to this matter."

Mr. Renwick: Tha's my point. Perhaps there are other circumstances, but that should be the approach. You can't lay down those kinds of strict rules for every case, but it does become a brief narrative form without any regard to the legalities on which that statement is made. These are the facts, that's the basis of the plea of guilty and that's it. There isn't anything else relevant to the question at hand. That might have solved the problem.

With respect to my second question, I may have missed any remarks the Attorney General made about it—I want to ask him about the case of Judge Scime, the county court judge in Hamilton, who appeared on behalf of his son before the magistrate.

Hon. Mr. McMurtry: He appeared before a justice of the peace.

Mr. Renwick: The justice of the peace. I was concerned that the crown was placed in an extremely difficult position as well as about whatever unconscious pressure may have been exerted on the justice of the peace. Did you make a specific comment which indicated in your view, with all of the diffidence that's necessary when speaking of the judge, that was an improper act of His Honour, regardless of his motivation?

Hon. Mr. McMurtry: I think the language I used consistently was it was a most unwise act on his behalf. That was the term I used publicly. It was expressed to the chief judge and to a senior judge. I indicated in my view it was certainly a most inappropriate role for a county court judge or any judge to play.

Mr. Renwick: I had this concern and question about it. We have established a judicial council to preserve the sense of distance necessary within the system. Without expecting Judge Scime to be punished or reprimanded, is there not a way that kind of matter could go to the judicial council so that it could express some view on it to make certain it doesn't happen again, regardless of the bona fides of the motivation, as I'm sure was such in the case of Judge Scime?

[3:30]

Hon. Mr. McMurtry: The language of the act is fairly narrow as far as federal legislation is concerned. We're hoping to clarify provincial legislation in the provincial judicial council. As I recall the federal legislation, it is a matter that may be referred to the judicial council for them to make inquiry and to take disciplinary action or something to that effect. This, as I recall the wording again, and I don't have it before me at this moment, was fairly narrow and didn't seem to leave room for an expression of concern, that would be formally considered by the judicial council; this would just allow them to indicate they don't approve of that. In other words, the step that you are suggesting, Mr. Renwick.

Mr. Renwick: Yes, I personally think that would be a much more proper way. First of all, it would be seen to be done by a body which is charged with that kind of question without necessarily having always to be engaged in disciplinary matters. It would be seen to be public and it would be a warning to the judiciary generally. Although most judges might say they wouldn't have done that anyway, they don't really know whether in the particular circumstances of a personal family involvement they might suddenly feel they could take—you just can't account for it.

I personally think there is a specific area where that kind of question, of manners and behaviour within the court system, far short of anything wrong in the legal sense of the term wrong, should be before a judicial council.

Hon. Mr. McMurtry: I agree. My concern, which is similar to yours, arose in respect to some comments that were made by a provincial court judge with respect to a female witness. His remarks got a lot of attention.

Mr. Renwick: That is the kind of question.

Hon. Mr. McMurtry: In that matter the provincial judicial council took the position—in similar wording, as I recall, although I don't think the wording was quite as narrow as the federal wording as a matter of fact—that they had no jurisdiction to do anything other than recommend an inquiry or not recommend an inquiry, that that was the extent of their mandate. That was one of the reasons that led me to ask the former chief justice, Mr. Justice Gale, to review the Provincial Courts Act. He has made certain recommendations to broaden the mandate of the provincial judicial council to meet the very situation about which you speak.

I had hoped we would have had some legislation ready for this fall, but we will be introducing some in the spring to accomplish that. It may be that as part of that we can make certain recommendations to the federal government for a similar amendment so they don't have to bring the full panoply of the judicial council into play, with a disciplinary hearing as such, but would have a mandate to make comments that would provide guidance to other judges. So basically I am in agreement with what you say in that respect.

Mr. Renwick: The other specific matter I am quite content to leave to vote 1406, if that's appropriate. I will, as I indicated the other day, be asking you for whatever statement you want to make about the involvement of the justice of the peace in connection with the detention of Brando Paris in the jail at Barrie. One minor aspect is that I was anxious to know to what extent the crown was involved in that decision to detain Brando Paris, either before or after.

Hon. Mr. McMurtry: I can respond to that now. The crown counsel was not involved at all.

Mr. Renwick: I thought that was so.

Hon. Mr. McMurtry: The crown counsel has indicated to us that if he had been notified about this predicament he would have arranged for Mr. Paris's release on the Satur-

day. He is confident that if a lawyer had contacted him and pointed out to him what had happened he would have been able to arrange some hearings on the Saturday and he would have consented to the release. He did consent to the release, of course, on Tuesday.

Mr. Renwick: Tuesday afternoon; yes, that's right. All right; I can leave that until we come to it.

My last remark on this vote is in the nature of a query. To what extent is this fiction, of all the lawyers in the government being members of your ministry or members of your staff? To what extent is it a fiction, under the third item? In other words, is it a fiction in the sense that there are lawyers out in the various ministries who have very little contact with your ministry, in the sense that they are permanently out there and have been in some of the ministries for such a long time that they more or less run their own show in that ministry because of specialized knowledge and attachment? Or is it a reality in the sense that you have some method of rotating people and calling them back in?

I personally happen to think they should be all under the tutelage of our common friend Singer. When he was here, we always talked at great length about you being all of the law, all the lawyers being under you and so on. But I have a funny feeling every now and then when I see bills before the assembly which appear to have been basically the responsibility of the lawyers in the ministries—I am not speaking now about legislative counsel, who may have final say about the wording, but about the lawyers out in the ministries—who perhaps could well be seen to require, shall I say, a little refreshment as to their conceptual sense of how the law functions.

I had that funny sense the other night in the House—I don't want to dwell on the case, but the instance is right in my mind, and I have noticed it from time to time on other occasions—when they decided, because of the Sears takeover business, that the Ontario Securities Commission should meet with their confreres in Montreal of the Quebec Securities Commission. As a result of that, somebody questioned that act of theirs, and we passed the amendment last night that they could conduct hearings outside the jurisdiction in conjunction with any other similarly established body, in any particular jurisdiction and that they could consult with them.

I simply raised in the House whether it had been considered that they should be making the decision part of their jurisdiction outside the territorial jurisdiction. I was concerned that their quasi-judicial or administrative decisions, which are so inherent in that body, should be made here; in a sense their role outside should be very special and relatively passive, in conducting hearings and consulting, but that decision should be here.

That seemed to me the kind of question that was inherent in the problem involved with the commission sitting abroad, and I wasn't particularly satisfied with the answer in the House.

I illustrate it, not so much to discuss whether I'm right or wrong about it, but because I have the funny feeling that the particular lawyers in the various ministries are somewhat more detached from your ministry than they should be.

Hon. Mr. McMurtry: First of all, I think the concept of the common legal services is a good one. We have a director of common legal services; that used to be John Hilton, and now is Brad Gleason, formerly with the Ministry of Housing.

The concept, while good in principle, doesn't work out in practice as well as I would like to see it. My own view is that there should be more movement between my ministry and the various ministries for the concept to work as well as I would like to see it work. The practical difficulty is that once a lawyer becomes very familiar with certain legislation the ministry is very loath to part with that individual. Take David Bernstein in Health, for example; he's very familiar with all of their legislation. To train another lawyer to reach that point of expertise and familiarity, which is necessary if that person is going to assist, is a problem.

Mr. Renwick: That's exactly the problem, that high degree of intense specialization. If I can coin a phrase—and you can use this whenever you want—you can't see the forest for the trees. That's the problem.

Mrs. Campbell: You're exploiting that.

Hon. Mr. McMurtry: That's what happens.

Mrs. Campbell: You just found it in a book.

Hon. Mr. McMurtry: There's no question that it is sometimes difficult for lawyers who have been involved in one ministry for a while. Where there is a difference of opinion, as inevitably occurs from time to time, between law officers of the crown at 18 King Street East and law officers who have been part of one ministry for some time, it does place that lawyer in a somewhat difficult position. Again, I would like to see a system

where there was more mobility, but from a practical standpoint it's difficult to achieve.

Vote 1404 agreed to.

On vote 1405, legislative counsel services program:

Mr. Warner: Just one brief comment on this, Mr. Chairman. I and, I'm sure, other members of the assembly have had the opportunity to make use of the legislative counsel services. I can't speak for other members in the assembly, but I have been more than pleased with the service I have received as a member of the assembly in the drafting of bills in which I've had an interest. I always found the advice most helpful and the work done extremely well and very quickly. I know they have enormous pressure put upon them, but I am extremely pleased with the service I have received any time I have gone there. As I said, I can't speak for other members, but that is my impression.

Hon. Mr. McMurtry: I'm sure Mr. Arthur Stone, QC, who is with us, would appreciate your comments, and they are well deserved.

If I might be anecdotal for a moment, I can recall several years ago a problem we all had in dealing with legislation, and there was some suggestion of legislative initiatives from one of the opposition parties to resolve the problem. As an instant reflex, I was talking to Mr. Stone and made some sort of quiet inquiry as to what sort of thoughts the opposition had with respect to their legislative initiative. I must admit I was met with a very stony gaze. He then quickly reminded me that I should never even contemplate such questions.

Mr. Warner: It's a funny thing; I just reflect back—and maybe it comes back as I think about it—on some of the comments I made at the beginning of these estimates.

When I first came here and learned about the possibility of a private member having a bill drafted, I made the assumption—incorrectly, obviously—that this kind of legislative counsel service would come under the Speaker. I assumed it was a service that was available to each of the members and therefore totally independent, functioning through the Speaker. I, too, quickly learned that it wasn't, and it was found in the index under the Attorney General. But I certainly am pleased, even if it's not going to be under the Speaker, that it is independent enough that the Attorney General can get a stony gaze on occasion.

[3:45]

Mr. Renwick: I also made the mistake one time of thinking, in my own naive way, it should have been an office under the Legislative Assembly, but Mr. Arthur Stone quietly and quickly disabused me of that. It was a misconception of what the role was. He did it so extremely well I never dreamt of the idea again. I would be quite happy to leave it the way it is. I want to say the same thing because, sitting in the opposition, we have total confidence we can go to the legislative counsel's office and discuss a piece of legislation, or an intended amendment, and be quite certain the confidence is total and complete.

The quality of the service is superb and, in our experience, the efficiency in dispatch is very good. The interesting thing is, our caucus is generally learning to make use of it. For a long time you would find somebody trying to fiddle around to get the language right themselves, whereas if you can give just the sign that you know a couple of chords in the tune you can go there and they will produce a very legal document reflecting exactly what you want to say. I feel very good about that part of it.

When you are revising the statutes—we may introduce the amendment in the House when the bill comes through, and I'm sure we might have Mrs. Campbell's support on this—instead of the masculine including the feminine we might have the feminine include the masculine in the revised statutes for the next 10 years and have hers for all the hims.

Mrs. Campbell: It would be nice to have some kind of equality.

Mr. Renwick: Yes, for 10 years. That is a big job. I would like to ask two questions: First, with the extensive increase in amounts allocated because of the translation of the statutes into French and what that entails, how is that program progressing and what is the recruitment involved for that?

Secondly, to bring us up to date in modern techniques being used in the revision of the statutes with respect to that terribly laborious job it must have been, it must now be somewhat easier because of modern methods of keeping the material up to date and current throughout the 10-year period.

Mr. Stone: First, in connection with the French translations, the program was cleared for financing a year ago August or September.

The first job, recruiting, was very difficult in order to get a balance of ability in the language plus the legal background so translators would understand the nuances of the English. By the end of the year, the man to head the office, Mr. Philippe Maltais, was

then able to assist with further recruiting. By July, we had most of the staff in place. During that period there was not a great output, because we were just building up staff. Once the staff was obtained, there was the difficult task of putting in place a drafting system in French—one that ensured there was uniformity of terminology; even the name of the short title of an act would have to be settled for the purpose of referring to it, and then a method of making sure it was always referred to in the same way. All these things have to be established—things we take for granted in English because the drafting system has been in place for 100 years.

This training and establishing a system of drafting have been going on since July. Along with this, we have produced 12 statutes to date. Production is gearing up, and we have as many again in the later stages of being produced. There will be a rapid increase in the output.

As far as I can tell, the quality of the drafting in French and the quality of the language has been very well received.

Mr. Renwick: On the revision of the statutes, what sort of period are we talking about now?

Mr. Stone: The revision is intended to include the 1980 session. During 1980, while the House is sitting, we will revise statutes as they exist to that point. Then it will just be a matter of adding in the 1980 production. During the first half of 1981 that will be printed, bound and ready around the middle of the year.

Mr. Renwick: I only have one other question. I see Mr. McTavish around from time to time, but I haven't seen Mr. Alcombrack. Has he come in off the golf course yet?

Mr. Stone: Warner is living in Bracebridge.

Mr. Renwick: On the golf course?

Mr. Stone: Beside a golf course, as I understand it. I haven't seen him since spring.

A revision is standing now as an update, and it's from that update that we printed the office consolidations; so there will be no typesetting for this revision. This is the first time we have been in that position. It isn't standing as a magnetic medium. The update is in positive film, produced by photocomposition off paper tape, which was the system for the past 10 years.

Beginning this year, all the new statutes are put on magnetic discs and printed off that; so, after the revision is out, we expect to be able to have a gradual program of storing all the statutes on magnetic discs for printing. This then is available for any other agency or branch of the government that would like to transfer it on to computer tape and reprogram it for retrieval.

Mr. Renwick: Do you have an up-to-date list of all boards and commissions of the government, or are you the appropriate person to ask for it? I remember you used to have a list, and I haven't got an up-to-date one.

Mr. Stone: No. I'm afraid this is not something that our office maintains.

Mr. Renwick: You did at one point, I remember.

Mr. Stone: I have, like yourself, received these when they were prepared by committees. I know there was a committee on boards and commissions 20 years ago that started it.

Mr. Renwick: The other index we found useful from time to time was the index of the statutes by responsible ministry. If that is available, it would be helpful for each of our critics to know which statutes come under which ministry for responsibility. Is that a possibility?

Mr. Stone: Yes, it is. That's maintained by the cabinet office, but we keep their latest production. We would be happy to—

Mr. Renwick: If we could have one copy, we could make extra copies of the sheets we need.

Mr. Stone: I can look after that.

Mrs. Campbell: Mr. Chairman, I certainly feel Mr. Warner could have spoken on behalf of members of the House, as I would like to do, in expressing my appreciation for the services of legislative counsel. Of all the operations in this place, it is the one which has my very heartfelt appreciation, and it's only appropriate that should be stated in Mr. Stone's presence.

I would like to ask one point on the revision of the statutes. What procedures are there for bringing to somebody's attention—since I don't profess to know all of the statutes yet—when it appears clear that a statute is terribly outmoded? What is done to bring that to somebody's attention? I ask because I undertook the terrible task at the city of trying to get rid of some of the old bylaws that had absolutely nothing to do with modern living. I assume over the years we still have an accumulation of statutes that are no longer relevant. Is that so? If it is, what is the procedure at least to bring it to somebody's attention for consideration? Would you have that kind of function in your revision process?

Mr. Stone: First, a revision is not directed to reform of the law but is merely a mechanical update.

Mrs. Campbell: That's right.

Mr. Stone: As far as the revision goes, if we thought the statute was so obsolete it had no public application or interest, we would be able to not bring it forward in the revision but it might still stand as a valid law in history; that is unconsolidated and unrepealed. Apart from that, the only channel to get action would be to bring it to the attention of the ministry having the responsibility for its administration. Right now the climate is that most of them would like to find ways of paring down if they could.

Mrs. Campbell: So you, of your own initiative, would report it to a ministry?

Mr. Stone: Anyone who would like to recommend a statute be dropped or repealed because it is obsolete should bring it to the attention of the ministry. The only way of removing it is to put a repealing statute through the House.

Mrs. Campbell: Unlike a former and late chief justice, I do not take the statutes to bed with me. I'm in no position to try to delve through that. I undertook it once and I'm not stupid enough to undertake such a thing a second time. It wouldn't be initiated as far as you are concerned, in your counsel, your services.

Mr. Stone: Not unless the statute was obviously cancelled out by its own terms, not up to date, or something that might no longer be of any application. We might repeal it through the revision, but that would have to be very obvious from its terms.

Mrs. Campbell: I see. Thank you.

Mr. Leal: Mr. Chairman, on one occasion I recall Elmer Sopha soliciting the aid of Vernon Singer, when the Ontario Law Reform Commission item was before the House on those estimates, saying—to quote him: "My good friend Vernon and I, we'll go through the statute book, and we'll let the chairman of the law reform commission have a list next week of all those that can be repealed right away." I'm still waiting.

Mrs. Campbell: Now that he's retired, perhaps he has more time.

Mr. Renwick: The only one we really all understand is the Railway Act. It's been unconsolidated and unrepealed for a long time. I've never understood quite why it still is there.

Mr. Stone: I would like to look into that one for this revision. There were several factors. It was in 1950 that it was decided to leave it out. First, with the amalgamation of railways and the national railways taking over the local railways, its application was so limited that it was not felt to be of general public applicative interest. Second, it took up more than 400 pages.

[4:00]

Mr. Renwick: I asked the Attorney General for an answer in the House to explain why, in that volume five you have those ancient statutes, quia emptores, habeas corpus, statute abuses, and why they are part of the law of the province and still in that particular form. I've never heard anybody ever use any of them to support legal argument of any kind, but they must have some good reason for being there.

Mr. Leal: At home, we talk of nothing else.

Mr. Renwick: As an historical matter, I'm just curious as to why they are repeated every time in the front of volume five and—

Mr. Stone: They are part of the law of Ontario, brought forward from the law of England. The statutes of England were applicable to the colonies, all England's colonies, insofar as they had a relevance to local affairs. This was a rather vague principle, but what happened was that the local courts, if they recognized and applied it, incorporated it in their law. This is mainly the way it worked.

After Confederation—it was at the time of the revised statutes of 1898—there was a special commission to look back through the law of England as adopted by the courts in Ontario, which was the rule that would make it applicable, or probably applicable, and to collect all that, which was done by a supplement to the revised statutes—1897, I believe it was—and put out about five years later. That collected quite a body of this law.

Since that time they have been sifted off and incorporated into a lot of various Ontario statutes, and the numbers are reduced now to three or four pages. They change their meaning if you transfer it directly into something passed currently by the Ontario Legislature. They have their meaning only in their historical context. You have to read it that way, or else rewrite it completely. They would lose a lot if they were just transferred as a law today. It requires their historical context.

Mrs. Campbell: Can you tell me whether there is any apparent change in philosophy as a result of the Morrow report and deliberations with reference to regulations with

the new philosophy which we hoped would prevail but which we haven't really seen prevailing? The tests of regulations?

Mr. Stone: I'm sorry; I don't understand your question.

Mrs. Campbell: You don't understand? I was just looking at the whole purview of regulations which, in the federal scene, seem to have taken on a broad concept. Your concept basically was to look at a regulation to see whether it violated the principles of the statute, as I understood it. Is that still all that you look at?

Mr. Stone: Yes. The function of our office is to draft the regulation, which has a certain effect on what it does, and to take the responsibility for seeing that it stays within the statute. That's the extent of our function.

Mrs. Campbell: But you don't look at anything in relation to broader policies; you're looking to see that you're not ultra vires, I assume. You don't, however, look at the matter from the broad philosophy of the discriminatory aspects or anything of that nature. You just take the statute, and say that thing is there; then, as long as it provides that the Lieutenant Governor in Council may make regulations, you don't go beyond that in addressing those regulations.

Mr. Stone: I think most of what you have in mind might be done, is really done through the propriety of the regulation under the statute. It is not a mechanical thing. The intent of the Legislature is a very important factor, as expressed in the statute. However, we take a very strict approach to vires, and a lot of the things that you're mentioning, we would say, would really fall within the propriety of making that regulation.

Mrs. Campbell: But once you have in a statute—and, believe me, from the opposition point of view we are not inclined to want to give powers to regulate within the statute, because we have found, at least from our point of view, the statute does not spell out a discrimination, but the regulation, in effect, does. You have relied in the past on the right of the Lieutenant Governor to make regulations and, therefore, if they are discriminatory, that's tough bananas.

Mr. Stone: On the question of a regulation being discriminatory, our position has always been that that is outside the authority. There has to be specific authority for that, and this is the principle applied to bylaws in municipalities.

Mrs. Campbell: We shall approach you from another angle, I guess.

Mr. Leal: I think Mrs. Campbell is referring to the federal Statutory Instruments Act, under which jurisdiction is given to a group, a committee or whatever, to review each regulation to make sure, not only that it's intra vires, but also that the principle and the thrust of the statute are being advanced by the regulation.

Mrs. Campbell: That's right—and doesn't offend, as I understand it.

Mr. Leal: I think that's a more accurate way of putting it: that it doesn't offend the thrust of the statute in any way.

Mrs. Campbell: That's what the Morrow committee was trying to get accepted here, and we seem to have to have run on very barren soil. I'm not suggesting it's Mr. Stone's position. I just wondered if there were any different thrust as far as he was concerned. There is, in the committee, as I see it.

Mr. Stone: We see ourselves as doing that, but we would welcome any other agency that would review it. I was promoted some years ago, with the creation of a members' regulations committee for that very purpose, to put on the table what we were doing and to have a review of that. I think, what Mr. Leal described of the commission down there, that is what we are attempting to do.

Mrs. Campbell: The only thing was, I drew to your attention, and to the attention of others, the fact that a regulation provided in effect that a married female could not claim benefits under the family benefits for disability, although the male spouse could. I'm not sure where the discrimination lies, in honesty, because I sometimes think the husband is in a bad position when he can't have that assistance on behalf of his wife.

The Minister of Community and Social Services called it an anomaly but couldn't afford to change it. The answer from those from whom I sought answers was that there was that power in the act for the Lieutenant Governor to make regulations and, therefore, it was a valid regulation.

I am still not convinced, and I hope somebody will find a way to test it adequately in the courts.

Vote 1405 agreed to.

On vote 1406, courts administration program:

Mr. Acting Chairman: The committee had agreed to give Mr. Conway an opportunity to raise an issue that's very important to his riding, I believe.

Mr. Conway: Thank you, Mr. Chairman. I do appreciate the opportunity to make two

or three observations under this vote. I'm probably going to stray very briefly beyond the strictest interpretation of this particular vote. I did have other committee responsibilities, and I've been trying to keep an eye on this particular operation here.

I want to talk under the courts administration vote about two or three items that I do think merit some comment from me as the local member from one of the two provincial constituencies in the great county of Renfrew. I know the Attorney General is well versed on the local traditions of justice in that part of the world. In fact, the other day I was just looking at an old speech by Les Frost when he was talking about the law of Killaloe and the great localism and parochial justice to which it made reference.

I have a fairly rich experience from that part of the Ottawa Valley. I grew up with the names Jim Maloney, Joe Greene and others who were a part of the judicial and legal traditions of Renfrew county. I know something of the very colourful nature of that particular part of the province, and how justice has been meted out to the public there.

I want to talk about the county from the point of view of its special needs in one particular area. That is the very special need and requirement for the immediate appointment of a family court judge. I want to draw to the Attorney General's attention again my concern in this connection. I know that he has on file letters from myself and others about the requirement for a family court judge. I'm not going to bore him or others in the committee who know the case far better than I do for giving family court facilities and family court personnel the kind of priority which we all believe they certainly need to have in this day and age.

I want to advise the Attorney General what the present conditions are in a county that has 90,000 people It has geographical layout that can be best understood if one imagines a distance of 125 miles on a north-south axis, almost a 75-mile distance along the east-west axis, and 90,000 people scattered across a rural, small-town setting.

The way in which family court requirements are met now, from the point of view of the local judge, are as follows: We have no resident family court judge for that particular county. Our requirements are met by visiting judges from Belleville and North Bay, who travel approximately 140 miles to get to the two local venues, Pembroke and Renfrew, which are the only two in which family court are held. That means people from areas like Killaloe, Barry's Bay and Whitney travel, if you can believe it, upwards of 70 to 80 miles for their family court requirements —people who in many cases simply can't afford it; people who in all cases really have no access to public transit of any kind; people who I believe are having their justice in some real way denied by the lack of a better family court situation.

[4:15]

I want to draw this concern to the Attorney General in the strongest possible way. I know he has before him the name, if not the names, of very reputable local barristers who I believe would meet the need admirably. I think it is an appointment that is long overdue and the absence of which I personally can't abide any longer. On the basis of the real and immediate local needs, particularly from those people who have to travel long distances for repeated encounters, I stress the urgent and pressing necessity for an improved family court situation, an improvement which I firmly believe will only be met with the immediate appointment of a family court judge for the county of Renfrew.

I want to recommend that to the Attorney General in the strongest possible language. If he has a response at this point, I would certainly appreciate hearing from him. I share the local law society's feeling that we are not receiving our just desserts in this particular instance. It may be that this is the pattern across the province, though I dare say in southern Ontario, it would be very difficult to point to circumstances which are similar in terms of distance. I firmly believe you're placing the two visiting family court judges, both of whom are highly regarded, in very difficult circumstances.

I don't need to tell you what it is like in the wintertime to drive from Belleville for that 142 miles; or from North Bay, another 135 miles, and then to be in any kind of mood, after fighting winter elements and other things, to carry on in the way you might otherwise wish to. I certainly again recommend to the Attorney General that this is an urgent and pressing necessity for the people I represent. I would really like to hear from him, today or very soon, a commitment in that regard.

Hon. Mr. McMurtry: The information I have to date is that, dealing with the case load that is handled, we do have some counties and districts that do represent a large geographical area.

The case load in the family court in the county is about two thirds of what is re-

garded by our administrators as a case load to warrant a full-time judge.

Mr. Conway: I can certainly appreciate that. It has been discussed by the local society and others. It strikes me that the combination in some way, perhaps of Renfrew and Lanark, or Renfrew and Carleton—some amalgamation of the more immediate—

Mr. Renwick: You'll have to raise the level of family discord.

Mr. Conway: I pass it along to you as something far from being a laughing matter for those many people. I want to make it very clear that, for the people I represent who have to travel 80 miles to have their family court requirements met, I find it absolutely intolerable in this province in this day and age, for a part of the administration of justice, which we are trying to highlight.

In Renfrew county it is very hard to get real and lasting evidence that this enjoys the priority which the great speeches we all make from time to time would lead the unsuspecting general public to believe.

Mr. Warner: It's probably the case load, Sean.

Mr. Conway: If you wish to argue that the case load in the county itself does not merit the full-time appointment of a family county court judge, then I strongly recommend as an alternative consideration that you amalgamate the family court requirements of Renfrew and Lanark, or of Renfrew and Carleton. It seems to me that would be very sensible. But the idea that judges are being brought in from North Bay and Belleville, and the venues are as restricted as they are to Renfrew and Pembroke qualifying, in a totally unrealistic and unacceptable way, the family court services being offered to the people in that area, I can assure you.

Hon. Mr. McMurtry: Just before we leave that, the Deputy Attorney General states there is a meeting scheduled with the chief family court judge on Friday, and your concerns are on the agenda. We'll try to report back to you very shortly.

Mr. Warner: That's swift action.

Mr. Conway: I will appreciate that very much. I am here because of a considerable number of complaints, comments and concerns raised by both the legal and the non-legal part of my community.

I want to say something else while I'm here. It will be brief. To one degree or another it responds to another aspect of this vote, and it is local. I want to say it as bluntly and as politely as I know how; I think you deserve praise as the Attorney General. I am quite prepared to give you that. I think you have demonstrated provincially a courage which is commendable. Your recent appearance and performance at North Bay is a good example of the kind of exemplary behaviour I am very happy to applaud, and I do so now unequivocally.

In the administration of justice at the local level, in terms of Renfrew county, you have made some excellent appointments, and I congratulate you for them. In my view, the new provincial court judge and the new sheriff are a splendid departure in this connection. I want to go on the record as saying that.

Hon. Mr. McMurtry: Thank you.

Mr. Conway: I say that quite sincerely, and I mean it. I want to say something else. As a lay person with four years and some odd months of experience as a member of the Legislature, I have been disturbed to see some of the history and some of the not-so-historical evidence of how the administration of justice can be mired in some of the worst political muskeg imaginable. In my county you have done an admirable service in lifting it above that muskeg. For that, you deserve the commendation which I now offer.

We have a new provincial court building in the city of Pembroke for the county of Renfrew. That is a building for which you are only partially responsible. I don't know exactly how the relationship between yourselves and the Ministry of Government Services operates; but I do know—and correct me if I'm wrong—that you have at least a passing interest and a passing comment on that particular facility.

Hon. Mr. McMurtry: Yes.

Mr. Conway: I want to congratulate you for one of the worst facilities for the money spent that I have seen in my time as a member of the Legislature.

Mr. Leal: That's Government Services money.

Mr. Conway: I want to tell you very briefly that I am offended, because I have before me a letter from the Deputy Minister of Government Services. I find out that the people of Renfrew county and the others in Ontario are paying $6,783.34 per month. I understand from local people who are far more knowledgeable of these items than myself that this is a pretty damned good rent—a first-rate rent for a third-rate facility. It is a rehabilitated garage in the worst location in the city of Pembroke and in the whole county of Renfrew. It is a disgrace. It is an insult to the people. You've parked this thing

on the worst conceivable intersection. It is in a place where, if the member for Riverdale (Mr. Renwick) or anyone else who wanted a permit to put up any other kind of public commercial building, the government of Ontario or the local government would laugh them right out of town, as they should.

It's a reminder that the government of Ontario can so often be the worst violator of the rules and regulations, planning or otherwise, that it establishes for the general public. The next time you're in Pembroke, I recommend that you visit the new courthouse. I complain not about the facilities within, but most especially about the location. It is appalling. It is on the worst corner of the worst intersection that I have in my riding. It is a disgrace. It reminds me of the local liquor stores, which are shoved into the most inaccessible parts of the town and which have a volume of consumer interest and business contradicted by their very location.

To start with, I was mad when I saw the rent being paid—and I won't trouble you, because I'm going to see the Minister of Government Services about the arrangements—

Mr. Warner: They'll send you back here.

Mr. Conway: When I see what we're paying, and when I see, as I do occasionally now, the traffic jams, the lineups, the parking facilities—one of the lawyers told me the other day it's not uncommon for the judges in the chair to interrupt proceedings now to give traffic instructions to people whose cars are cluttering the intersection, and snow and ice have not yet arrived.

Almost $6,800 for that kind of facility. I am appalled that we ended up with this kind of facility. I'm not saying anything about the internal layout, which I hear in some respects is very good; but the location of that facility is an insult to the many people who travel the many miles to go to court there. They certainly never will be able to park anywhere near the facility in the summer, much less in the winter.

A fine thing it is, it seems to me, for people who are paying the shot to come to court, only to have the joy and the pleasure of walking up a very substantial hill, and walking a considerable distance—in many cases a good quarter of a mile—to have their justice requirements met. For $6,800, a pox and a plague on the people who visited that upon the people of Pembroke, and on the people of the county of Renfrew.

Mr. Chairman, you have been most indulgent.

Mr. Acting Chairman: Thank you, Mr. Conway.

Mrs. Campbell: Is the Attorney General going to respond, because I had introduced some other matters pertaining to the administration of justice, namely, the situation of the county court judge in that area who resides, as I understand it, in Ottawa, and who is very often absent when one needs him in Brampton, according to the discussion we had. Some of the elements of the family law provision can't be met in that county. Perhaps you could address all of them at the same time.

I was also advised that in that county court building there is no facility inside for witnesses. It's a little cold on the outside, so I'm advised.

Mr. Conway: Mr. Chairman, there was much more to say but you've been very kind in allowing me this brief interlude, and I won't abuse it.

Hon. Mr. McMurtry: I haven't had the pleasure of visiting the new premises.

Mr. Conway: I make it clear again; it's not the inside arrangement, which I can't speak to, but the location of that facility which I object to in the strongest possible way.

Hon. Mr. McMurtry: I'm sure I'll have occasion to visit Pembroke in the not-to-distant future, perhaps to address your annual meeting. I was just told by my senior staff that they advertised for some three years looking for a location for this court facility, and that in three years this was apparently the best they could come up with.

Mr. Conway: I tell you and your officials that if the free market forces, for which I have the highest regard, cannot produce a better response than that, I am almost suspicious of the way in which the whole process was entered into. I can assure you because I made it my point to take the dollar figures to some of the others who are in this business, and to inquire of them what they saw as the opportunity to undertake this kind of a procedure of contract—that they were in no way of a mind to say that it was an uncompetitive or uninteresting proposal. Far from it.

I can't speak to it, because I was in no way privy, but it just disturbs me that we should end up with that result; it really is something about which I feel very strongly.

Hon. Mr. McMurtry: In any event, in view of Mr. Conway's eloquent attack on the choice of location, I certainly feel it incumbent upon me to try to get together some

history as to how this particular facility ended up in this particular location. I can recall a great deal of interest in the last several years in establishing this new facility, and it's unfortunate I hadn't realized until recently there was a degree of unhappiness, as there apparently is, with respect to its location.

We will gather the history together, and will be in touch.

Mr. Conway: I much appreciate that.

Mr. Acting Chairman: Thank you, Mr. Conway and Mr. Attorney General.

[4:30]

Mr. Warner: In view of the time constraint now I will raise one issue, and as I mentioned before, the remaining items, while I won't be able to present them today, I will present in print form for the Attorney General, if he would be so kind as to respond when he has an opportunity.

I would like to raise what appears to be an unresolved matter involving quite a few people. The problem has existed for three years, and it's not resolved. It has to do with the professional verbatim reporters. I take it that situation has not been resolved, and yet my understanding is that there is a fairly clear-cut, reasonable way to solve the problem. For some reason it hasn't been done.

This is a statement which the Attorney General made in the assembly on June 14 of this year, which in part reads: "Action has already been taken with respect to this recommendation, and further action of a non-legislative nature will be taken over the next few months. Appropriate legislative responses will be prepared for the fall sitting of the assembly."

There are three things: I would like to know what action was taken, what further action was undertaken in the intervening time, and which legislative responses were prepared for the fall sitting. My reading of the calendar is that we are approaching Christmas, and we've kind of slipped through fall.

Mrs. Campbell: It's still fall.

Mr. Warner: I think that's the place to begin, because obviously the matter has not been resolved.

Hon. Mr. McMurtry: It might be of more help to you, Mr. Warner, to ask the Deputy Attorney General to respond. He has spent a great deal of his time meeting with various of the groups who have been involved in this process, the verbatim reporters and the special examiners, leading up to and following Mendel Green's report. I think he can be of more assistance than myself at this particular point in time.

Mr. Leal: Thank you, Mr. Chairman. I would like to recognize the attendance here today of Mr. Bauer and Ms. Kirzner, both of whom I have met before in connection with my discussions with the professional verbatim reporters' association, and to say that I am grateful to them for letting me have today a copy of the report which was formulated by Mr. Mendel Green, QC, at the request of the Attorney General.

When I say they let me have it today, that is entirely accurate. They were trying to get it to me some time prior to today, but I hadn't been available. I do want to thank them for the time and thought that they have expended on this by going through the report on a page-by-page basis, and to write in their comments on the statements and recommendations which Mr. Green has made.

I want to assure them, through you, Mr. Chairman, that I will read this report yet again, against the comments they have made, to see to what extent, if any, they disagree or would like to put some gloss on what Mr. Green has said with regard to Metropolitan Toronto area.

May I say just briefly that we received Mr. Green's report some time at the beginning of February. It is true that the Attorney General addressed the question in June. It is also true that there are some aspects of this which will require legislation if the recommendations are to be implemented. There are other parts of the recommendations which require no such legislative change but can be brought about by changes in administrative practice.

I do not want to suggest for a moment the fact that it hasn't all been tidied up at this stage is to be laid at the door of the Attorney General. He gave explicit instructions, prior to June, and I want to say, Mr. Warner, that I'm afraid I must accept the major responsibility for the fact that we haven't yet been able to find the number of idle hours to put the package together

Why were the legislative changes not brought forward in this session? They were contemplated, but I must tell you that the legislative program for the current session was so crowded—there was such a queue on the runway, if I may put it that way—that there were other matters within our ministry which were thought to be of higher priority than this and we went with them first, to say nothing, of course, of the other ministries that had legislation.

Let me close on this note, Mr. Chairman, if I may: The Mendel Green review and report was instigated because of the unhappy differences that had developed between the special examiners, on the one hand, and their employees and/or agents, the professional verbatim reporters, on the other. It was a major concern of the ministry at that time to determine if the time had arrived when a whole system had to be fashioned to make this service available to the court, and the clients of the courts, in a way other than the way in which it is now being performed.

I am happy to report that Mr. Mendel Green is firmly of the opinion that there's nothing which is basically unsatisfactory about the present scheme. He does have some perceptive and, admittedly, important recommendations to make on matters of detail, but the basic fundamental, underpinnings of the system, he does not recommend be changed.

The things he recommends, for example, are things which lawyers, at least, will understand. A matter of great concern is the fact that if a witness who is being examined in the examiner's office refuses, on his own motion, or on the advice of his counsel, to answer a question, then counsel on the opposing side is supposed to request special examiner for a ruling as to whether the witness should be required to answer the question. That, of course, under the present procedure and because of the very large increase in the number of examinations being conducted, as well as the limitations of the number of staff et cetera, was not being done. It is recommended that the legislative and the regulatory provisions for that be removed, just to make current provisions accord with current practice.

There are other things I could go into which are covered by Mr. Green, but suffice it to say that we don't see any major overhaul necessary here. There are some statutory and rule changes that are required. We hope that legislative time might be available for those in the very near future. The recommendations affecting administrative practices are still under study in our ministry, and we hope to be able to move on those. I would be very pleased, Mr. Chairman, to answer any questions on details.

Mr. Warner: I'm even more disturbed now than before I asked the question. I understand what we're looking at are approximately 53 reporters who have very little, if any, clout with anybody against four special examiners who happen to occupy a rather special and unique position within Metropolitan Toronto; as I understand it, they really have a corner on the market. Injected into the court system, a public system designed to operate independently on behalf of all citizens in Ontario, is the private enterprise system of the special examiners. But they're operating in a monopoly situation. They obviously wield a great deal of power. If I understand things correctly, and maybe I don't, up until now those reporters have had to deal with the special examiners in their concern. There was no on else to help them.

I understand what Mr. Leal is talking about on the possible changes, but I want to know who is going to help solve this problem? It's clear to me the verbatim reporters are not going to be able to solve the problem on their own. They are powerless to do so. They're outpowered by the special examiners. They haven't got a hope in solving that problem on their own. I would like to know, because I think it's your responsibility, Mr. Attorney General, what you can do and what you will do to resolve this problem. It's festered for three years, and I don't think it should go on any longer. Those people are very upset, and rightly so. I don't think they've been treated fairly.

Mr. Leal: Mr. Chairman, the conceptual, political and philosophical point about whether this ought to be dealt with as a private enterprise affair or as a governmental matter, I appreciate, is not unimportant. But it's not within my domain. All I can say, to be helpful on that point, is that during a meeting which Mr. McLoughlin and I called to talk to the verbatim reporters, they were asked very specifically whether in their view it would be desirable or helpful if the system were restructured to take the verbatim reporters into the civil service as the chartered shorthand reporters in the court reporting system now function. There was only one exception in that room; to a person, they said, "No, we don't want that." And they told us why. They said: "We can make more money. We've got more freedom. We've got more control of our own destinies. We do not want to get involved in that sort of deal."

Mr. Renwick: They work harder.

Mr. Leal: Perhaps. They didn't say that, but I'm sure that's so; there are longer hours. We were left in no doubt that there just wasn't any desire on their part to change the system in that way.

Mr. Warner: I understand that. I don't think it's relevant to get into any discussion

as to whether the special examiners should be a part of the public system.

Hon. Mr. McMurtry: But that's part of the issue.

Mr. Warner: Maybe it is. But the special examiners have it both ways; they're part of the private enterprise system but they're in a monopoly situation. That gives them immense power, it seems to me, in a bargaining situation with the reporters. I don't think you should want to tolerate that kind of situation, that unfairness. If you can stand having the private enterprise interjection into the public court system, then that's fine. But why would you, at the same time, agree that it should be a monopoly situation, thereby hamstringing those reporters in terms of their trying to negotiate some reasonable settlement with their employer?

[4:45]

Hon. Mr. McMurtry: As I saw the problem when it was first brought to my attention—and the Deputy Attorney General has spent a great deal of time with the various interested parties in trying to be of assistance—you either did one of three things: maintain the status quo; bureaucratize the present system—we've been looking at making the special examiners and reporters part of the civil service because of the important function they perform in relation to the administration of justice in the civil field; that was an option we had to seriously consider—or say: "We're not going to give these four special examiners a monopoly. We're going to allow anyone who wants to open up or apply for a licence as a special examiner, assuming he has some basic skills, to do so."

As I recall Mr. Mendel Green's terms of reference, and I haven't looked at the report for some time, all of these options are open. I only saw the three options.

Mr. Warner: You could have made the special examiners civil servants and still allowed the reporters to float free.

Hon. Mr. McMurtry: Those were the only options I saw as reasonable in the circumstances. Mr. Green was to consider the monopoly aspect, which concerns me and always has. My chief concern and responsibility in this area, as I see it, is to provide a framework within which the individual litigant is going to be best served—not the individual lawyer, but the individual litigant involved in this type of civil dispute, which represents most of the work done by special examiners.

Mr. Green was of the view, apart from his own experience at the bar and consulting widely with lawyers and others, that the present system served the individual litigant better than any of these alternatives. To maintain a high quality of service and to control the quality of service in relation to the type of transcripts made available, it would be necessary to maintain a monopoly to control it and to restrict the number of individuals.

In other areas it's carried out through the local registrar's office. It's either that or bring it into the government. A fourth option you gave me was to make the special examiners civil servants and leave the verbatim reporters as free individuals.

Mr. Warner: It might end the line of hereditary titles.

Hon. Mr. McMurtry: There was great opposition within the profession to making the special examiners civil servants. There was very strong feeling that the quality of service, accuracy and speed of delivery would suffer if that happened. As I recall Mr. Green's report, and as the Deputy Attorney General has already stated, he did not recommend any substantial change in that respect. That doesn't mean it is the last word. That is but one report and one series of recommendations.

One of the issues that troubled me in this unhappy dispute between the verbatim reporters and the special examiners was to what extent the Attorney General, in relation to my responsibility with respect to the litigants and the quality of service, the cost, et cetera, I should attempt to act as a labour arbitrator in a dispute between the examiners on the one hand and the verbatim reporters on the other. That was and is of concern to me.

Mrs. Campbell: I had a supplementary question. One alternative you might give consideration to is the appointment of an additional examiner. While I am not distressed about the particular aspect of what the deputy said, I would be concerned if changes in procedures were dictated by the fact that these people are already overworked. I wouldn't like to think any quality was lost because of that. I am not addressing that in the specific case, but, if we are facing a situation where we have to drop such a matter because of the case loads of the special examiners, why would it not appear to be something you might be sympathetic to?

Appointing another examiner to ease that load is an alternative we haven't heard of.

Hon. Mr. McMurtry: That is something I am considering, although the special

examiners maintain they do not have too heavy a load.

Mrs. Campbell: Well, of course, I would think they would. That is one of the problems.

Hon. Mr. McMurtry: Mr. Green, in his report, was of the view, within his mandate to recommend additional appointments, that this was not necessary.

Mr. Leal: What he said was that if at some time in the future there were to be a demonstrable need for another examiner, that could only be determined after one of the four offices in Toronto was shored up to where it was performing satisfactorily and rendering efficient service. He had some critical things to say about one of those offices.

Mr. Warner: Yes, I can understand that. I don't want to misinterpret or misunderstand history. Am I correct in saying that 10 years ago we had five special examiners in Toronto and now we have four?

Hon. Mr. McMurtry: You may be quite right.

Mr. Warner: But the interpretation is that we don't require another one of these hereditary titles. They strike me as being appointments for life by the crown. It is hereditary, or you can buy the title, a practice which exists in England as well. You can buy the various titles available.

I understand your reluctance to be involved directly in this, but I would like to know, because I think it is only fair to those 53 individuals, do you intend—and if so, in what way—to attempt to resolve the outstanding difference which now has lingered for more than three years?

Hon. Mr. McMurtry: Before I attempt to respond to that, Mr. Warner, I might also say the appointments in the past were made by order in council; they are not made for life, and they are made on the recommendation of the chief justice. That is my recollection of the process.

Mr. Warner: It is not done in the back room of the Albany Club?

Hon. Mr. McMurtry: I would like to think I have a completely open mind about this. I don't know how I can help solve the problem. I don't intend, at this point in time, to make the special examiners part of the civil service. I would be very happy to have any suggestions you might have for me, Mr. Warner, as to how I might resolve or assist in resolving this impasse.

Mr. Warner: You have run out of suggestions?

Hon. Mr. McMurtry: I have run out of ideas, personally, yes. The Deputy Attorney General has worked very hard on this, and he may have some thoughts he would like to add to what I have said so far as this particular impasse is concerned.

Mr. Renwick: In a hypothetical case only, if a body with the proper organizational set-up, were to make an application for a licence, first of all to whom should they make an application and what would be the response if you have anything to do with it?

Hon. Mr. McMurtry: If there is going to be an application made by anyone, I would think it should be made to our ministry.

Mr. Warner: Would you consider a co-operative venture; that is, the 53 reporters standing together in a co-operative to run a special examiner office?

Hon. Mr. McMurtry: I think we are prepared to consider any proposal that is reasonable. I don't know how that would operate.

Mr. Warner: In all the conversation I didn't mean in any way to cast any aspersions on the deputy. The deputy has a good and well-deserved reputation.

Can I take it that, if there are concrete proposals, first they should go to the deputy and, second, they will be considered seriously? I am concerned, quite frankly, because this has been going on for three years. I would like to see some finality to it that would please the reporters and settle the problem in some way. Quite frankly, I think you will probably agree that they are at a distinct disadvantage in their dealings with those examiners. Perhaps if some very concrete proposals came forward, they could be dealt with expeditiously.

Hon. Mr. McMurtry: We are prepared to receive any proposal from any interested body. The monoply aspect of it has always concerned me. I know there are many lawyers, for example, who use a transcription service—a similar service perhaps, to what is offered by the shorthand reporters. If the service is good, they use it; they agree that that particular transcript will be used as an examination for discovery in the courtroom. There are others. I know of at least one fairly significant operation where a number of law firms apparently use a particular office that is not an official special examiner's office but by agreement they use the services of this particular woman and agree beforehand that the transcript will serve as an examination for discovery if the matter goes to trial. **[5:00]**

Mrs. Campbell: Why do they do that? If the service of the special examiner is useful,

and if the case load is not heavy, why would they go about it that way?

Hon. Mr. McMurtry: They are obviously satisfied with this particular individual. Perhaps they feel they get even better service.

Mrs. Campbell: Perhaps one might consider that person as a special examiner.

Hon. Mr. McMurtry: I think many people have made the recommendation for that person to be considered as a special examiner, although from a practical standpoint I gather it won't have much effect on the volume of work, which is now as high as they probably can handle, but it would give them that additional status.

Mr. Leal: I think I should add one thing, Mr. Chairman, for the record. In all this unhappiness, one of the four special examiners' offices in Toronto caused no difficulty at all, either to us or to the reporters, and there seemed to be no point of issue between the special examiner and his employed staff on any point. It was with respect to the remaining three that the terms of employment and the basis upon which their fees were to be charged and reimbursed caused the difficulty. I notice Mr. Bauer shaking his head. He agrees with what I have just said.

This is both a complicating factor and an ameliorating factor. It's complicating in the sense that it leads one to believe that perhaps this is something which has to be worked out on the basis of employment contracts. But the fact that this has broken down in this context also gives any human being a cause for concern and a reason to say, "Why are these things not being provided for?"

We have certainly reviewed the tariff and the basis upon which fees are charged, including charges against lawyers for no-shows and that sort of thing. We can deal with those things which are in a sense substantive but really mechanical. What we can't do under the present scheme is to say to some professional verbatim reporter, "Look, you have to drive a better bargain with the special examiner when you go to talk to him." I don't know how I can do that for them.

The final thing I would say, Mr. Chairman, is this: We are really caught up here to a greater or lesser degree with changing technology, stenomask as opposed to chartered shorthand reporting, with transcription by electronic devices, as has been tried in some registrar's offices throughout the province; then you give a copy of the tape to the solicitor who is conducting the examination and say: "Go back to the office and play this through. If you want it transcribed, we'll do that for you. If you don't, it's okay; it will cost you $2."

You put the thing on the slave attachment and, if you want, you can turn out a dozen copies within five minutes. All this is having an influence on these negotiations which we have to consider, because there are those who say we should do away with shorthand reporters entirely and go to multitrack tape recording in courtrooms, special examiners' offices and the like. Again, what happens when the lights go out? I don't know.

Mr. Warner: The lights are going to go out, Mr. Chairman.

Mr. Acting Chairman: Yes, we are going to have to call the vote, members.

Mrs. Campbell: Mr. Chairman, I know you are going to have to call the vote, but can I just ask the Attorney General if he will be making some response, as he said he would, to the matter of the backlogs in our courts? I am carrying this around with me; as I say, you haunt me daily. With respect, I don't think we have had any adequate response in particular to the Hamilton situation, but also to other situations in this province. I am not satisfied that it's a good enough answer to say that defence counsel may be responsible.

Hon. Mr. McMurtry: No. That has not been our answer. With respect, there are two major problem areas that we have touched upon. First of all, in Hamilton we are dealing with provincial court, criminal. County court is not a problem. The Supreme Court is not a problem. The unified family court is working well.

Mrs. Campbell: Yes, so I understand.

Hon. Mr. McMurtry: I had a meeting with the members of the local bar association as recently as Monday morning of this week to talk about the Hamilton situation. The problem area there is in relation to the provincial court, criminal. First of all, I should say, the chief provincial court judge just recently has scheduled additional sittings. He is bringing in a judge from Dundas to assist. It may be that we are going to have to find additional judges and additional court space as part of the solution. But there are problems related to scheduling of cases and what not that have complicated the situation.

I have met, as I said with the members of the local bar association as recently as Monday. I have met with our local crown attorney's office; I met with them several weeks ago. I have had a number of discussions with respect to the problem in Hamilton as to how we might best solve some of the difficulties in relation to backlog, and I will have something to say about it in the not-too-distant future.

The problem is not all related to courtroom space and the number of judges. There are more than two very troublesome areas. The other one that is of great concern to me, is in relation to the county court criminal cases in the judicial district of York. I have attended two meetings within the last week or eight days dealing with this problem. One was a bench and bar meeting, a week ago last night, which I hosted; this particular meeting is usually conducted by the chief justice of Ontario.

We had a meeting in the ministry yesterday with the chief justices of the Supreme Court, the chief county court judge and the senior county court judge in York as a follow-up. I made some proposals at that meeting which I hope will alleviate the situation. It's a little premature to indicate specifically what they are, because they haven't been totally agreed upon yet. But there are some initiatives that I hope will cut down that backlog in the county court, which is a very worrisome matter to me and very frustrating, I know, for our county court judges.

As you know in relation to the provincial courts about 50 per cent of all the criminal cases heard in our provincial courts are in the judicial district of York. We doubled the courtroom space and almost doubled the number of judges during my tenure. We still have some problems with respect to scheduling of the cases downtown but, with the new College Park complex and the new leased space in the three suburbs, we have done pretty well in that area. In most of these courts, cases are being disposed of within 90 days of the first appearance in court.

While there are these areas that worried me a great deal—I mentioned the county court in York and the provincial court in Hamilton—

Mrs. Campbell: Thunder Bay is another one.

Hon. Mr. McMurtry: —there are other areas where there are problems. We are spending a lot of time trying to resolve those, and I hope in the next few weeks we'll have something more to say about the initiatives that are being taken.

Mrs. Campbell: I just hope I may be kept advised of those. They are of concern to me and to others.

Mr. Renwick: Mr. Chairman, is it possible to provide any flexibility for a few minutes?

Mr. Acting Chairman: We are approaching the time for adjournment, Mr. Renwick, if it can be done fairly quickly.

Mr. Renwick: I think it can be done fairly quickly, but I am not the best judge of that. I don't anticipate it will be a long matter, but I have been wrong before.

I am quite prepared to leave my questions about the role of the justice of the peace in the Brando Paris matter until we get into the appropriate vote in the Solicitor General's estimates if that's agreeable with the Attorney General.

Hon. Mr. McMurtry: That's agreeable.

Mr. Renwick: That just leaves one matter, and that is on this vote 1406. I have been concerned, as has my colleague the member for Lakeshore (Mr. Lawlor), over a long period of time about the provincial court judges and the gradual improvement in their status as part of the judicial system which has been an ongoing matter now for some time.

I would like to talk a little bit, or get some impression from the Attorney General, about the relationship of the provincial court judges to the other areas in the judiciary with respect to their money matters and financial matters. It is not a collective bargaining process in that sense, but I want to get some idea of whether, in the judgement of the minister, they are being adequately remunerated. What is the present state of the discussions with respect to the remuneration and other money matters related to the provincial court judges?

The thing that has always concerned me is that they deal with such a high percentage of the actual cases that get through the courts. I suppose, if I had my druthers, they would be paid more than the top judges. You could almost put an argument for reversing the order of remuneration in relation to the burden of the work which they carry and the responsibility they have in the administration of justice.

I don't have any special sense of it, but I do have an understanding that the processes haven't been working particularly well and that there is some significant feeling, not so much about the actual specific dollars but about the way in which the process is operating at present in the negotiation and settlement of monetary matters.

[5:15]

Hon. Mr. McMurtry: Again, it depends on who you speak to in relation to this matter. Judging by the number of what I think are pretty qualified people who have made their candidacy known for appointments as provincial court judges, there seems to be a feeling amongst a lot of people that the remuneration is fair.

When I first became Attorney General, I took the position that I did not want to negotiate the salaries of provincial court judges, for very obvious reasons. As the chief

litigant in their courts, it would obviously have an unhappy appearance in the minds of some. So, while I am not being directly involved in the process, I have tried to be as supportive as I can; I have certainly indicated that.

I don't think they are being paid as much as they should be paid. I have to tell you there are a number of senior law officers of the crown, and other senior people in our government, who aren't paid, in my view, a fair salary compared to what is often received in industry, in private practice, et cetera.

I must admit the disparity between salaries of federal civil servants vis-à-vis provincial civil servants is irrational and unfair; and I would like to see the disparity between the federal appointments and provincial appointments reduced. I have attempted to support the reasonable increases they have received in the past year. I can't give you the percentages; perhaps somebody can point this out to me.

Quite apart from salaries, I want to make one further observation about pensions. I also feel the pension arrangements, so far as provincial court judges are concerned, are inadequate. I have asked Donna Haley in her commission to include that as a special aspect of her report, because I don't think they should be under the provincial umbrella. I am being as frank as I can, and some of my colleagues perhaps wouldn't be totally sympathetic. I don't think they should be under the provincial umbrella so far as their pensions are concerned. I am hoping we will be able to do something in that area in the near future.

So far as their process is concerned, they have met with the Premier during the past year.

Mr. Renwick: When you say "they," who is that?

Hon. Mr. McMurtry: I am talking about the Provincial Judges' Association.

Mr. Renwick: Right. The association meets with whom?

Hon. Mr. McMurtry: Generally they deal with the Chairman of the Management Board of Cabinet (Mr. McCague), and that is who they deal with on an ongoing basis. The Provincial Judges' Association has access to the Premier. They met with him last year, and they will be meeting with him again this year, I think within the next two weeks.

I know what the salaries are. I was just curious about what the rate of increase had been over the past couple of years. It was nine per cent last year.

Mr. Renwick: Do you have any input?

Hon. Mr. McMurtry: I have input. I made my views known to my colleague the chairman of management board, but they do negotiate with the chairman of management board and they do have access to the Premier.

I have to tell you, I am not happy with the process. This is a problem our federal colleagues have been faced with for some time. There was the Dorfman report, you may recall, which came down within the last year in relation to judicial compensation.

What both the federal and provincial governments would like to do is establish a different process for judicial compensation. The idea of provincial judges' associations or other judicial bodies having to negotiate salaries with government makes us all feel uncomfortable. We hope a new mechanism will be devised.

We are very much interested in how the federal government is going to deal with this problem, because we share the problem. We would like to have some review, preferably some review mechanism that is not an integral part of government and that the judiciary feels is fair and doesn't make it appear that they are beholden to any particular government, although ultimately the government must accept the responsibility and accountability.

Mr. Renwick: Would it be overstating your position to say you see them as part of the judicial process of the country insofar as it applies in Ontario—the Supreme Court of Canada, the Supreme Court of Ontario, the county court judges, the provincial courts—rather than as having any real connection with the civil service as such?

Hon. Mr. McMurtry: Yes. I see them as a separate institution. Over the years they have been caught under the provincial umbrella. I know this is a matter of great concern to them. It is an irritant of some significant proportion in the minds of many, because they feel perhaps it creates a perception of the judiciary being somewhat less independent of government than the perception should be.

Mr. Acting Chairman: It is the time for adjournment. Our time has expired.

Vote 1406 agreed to.

Vote 1407 agreed to.

Mr. Acting Chairman: On behalf of the committee I would like to thank the minister and his staff for their assistance and co-operation during this estimates consideration.

Hon. Mr. McMurtry: Thank you, Mr. Chairman. I would like to thank my colleagues for a very stimulating period of estimates.

The committee adjourned at 5:25 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Solicitor General

Third Session, 31st Parliament
Thursday, November 29, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Editor of Debates: Peter Brannan.
Published by the Legislature of the Province of Ontario.

LEGISLATURE OF ONTARIO

THURSDAY, NOVEMBER 29, 1979

The committee met at 3:30 p.m. in committee room 1.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL

Mr. Chairman: We have a quorum. We are here to consider the estimates of the Ministry of the Solicitor General. We have 15 hours in these estimates. I am going to ask the minister to make his leadoff statement.

Hon. Mr. McMurtry: Mr. Chairman and distinguished colleagues, I think we can appreciate that this has been a very challenging and a very busy year for the Ministry of the Solicitor General. I don't think it's likely to get much less busy in the months ahead.

I would like to say at the outset that we in this ministry are encouraged by the independent newspaper polls and letters received by the government and other public outlets which indicate that those in the front line of protection and public service of this province—most notably the police—continue to enjoy very widespread public confidence. I state most emphatically it is a confidence I share.

One need only look to recent events in Mississauga for further proof that confidence is justified. While we were all very much impressed by the strength of character and forbearance of the residents, we certainly owe a debt of gratitude to those who ensured that the largest evacuation in our history went in such a smooth and, for the most part, trouble-free fashion.

The calm and organized manner in which the Peel Regional Police, the Ontario Provincial Police and others helped citizens leave their homes and move to safer locations was really quite an extraordinary performance.

The way in which many human problems were solved, and the numerous acts of helpfulness beyond the call of duty that were performed by individual police officers during the emergency indicated the high degree of dedication present in all levels of our police.

The OPP played a prominent role in the events of Mississauga. At this point I think it's fair to say the bulk of the $7.5 million increase that we are requesting in the 1979-80 estimates for this ministry is certainly needed for the cost of maintaining that organization, which is so vital to all who live in the province. In a total ministry budget of more than $174 million, almost $125 million goes for OPP operations and salaries.

Committee members will realize we don't have a lot of financial flexibility in this time of government restraint when they see that of the additional $7.5 million requested, $5.5 million goes to negotiated salary and benefit requirements. We are asking for an additional $565,000 as well for our highly successful Indian band constable program.

The OPP's aircraft traffic surveillance project has been reinstated on a selective basis for this fiscal year, and to utilize six aircraft in eight of the force's districts in southern Ontario will cost an additional $115,000.

Provision has been made for an additional $106,000 in the fire safety services activity. That will include the placement of two advisers in northern Ontario who will serve in unorganized communities and assist in the establishment of adequate fire protection of these communities.

We have allotted $170,000 for replacement of obsolete vehicles at the Ontario Fire College in Gravenhurst.

A new activity, systems development, has been created in the ministry administration program and requires $376,000. This will also include the ministry's share of $250,000 for the proposed changes to the motor vehicle registration system.

About $200,000 is required as a result of changes in fees payable under the Coroners Act. Those include increases in witnesses' fees, expert witness fees, jurors' fees and fees paid to pathologists for post-mortem examinations. Regarding this final item, I believe such increases are more than justified in view of the vital work performed by those involved in these difficult tasks.

Naturally, we would welcome more funds allocated to our budget, but in this time of restraint, we in the Ministry of the Solicitor General are determined to maintain maximum effectiveness of programs for the least cost. The OPP, for instance, is doing everything possible to provide adequate policing services within the limits of a very constrained budget.

We share the dilemma faced by boards of police commissioners and by chiefs of police

to set a balance between good law enforcement service by restraining expenditures as much as possible.

The fact that the Ontario Provincial Police continues to operate at such a high level of effectiveness while continuing to enjoy an immense degree of public confidence is a tribute to the dedication of the men and women who serve so diligently.

A continued high priority for the OPP will be highway safety. Members of the committee will recall that earlier this year I expressed my concern at the alarming proportions of slaughter on our roads and highways. Diligent efforts by police later in the year, I believe, helped to significantly reduce the number of traffic deaths during several of our holiday weekends. The number of dead and injured were proportionately lower than the figures that caused so much horror earlier in the year.

By the end of the year, about 1,400 people will have been killed in traffic accidents in this province, and thousands of others maimed and injured. To put it very bluntly, in my view those figures are just too damned high. If 1,400 people were killed in plane crashes, industrial accidents or in such accidents as occurred in Mississauga, the public outcry understandably would be tumultuous.

With the automobile, there is a complacency on the part of much of the general public—a feeling that such carnage is somehow inevitable. I don't believe that such a waste of human resources, such human misery, is inevitable and I want to assure the members of this committee that we in this ministry will continue to give the matter of traffic safety a very high priority. We will continue to be determined to take whatever steps we can to reduce the carnage on our provincial highways.

Along those lines, we formed a committee of experts called the Ontario Traffic Safety Council to study the problems and we expect to be in receipt of recommendations from that committee in the near future.

The Ontario Police Commission has also recently appointed, at our request, a highway traffic safety co-ordinator who is investigating these many problems relating to highway accidents. We hope the commission will also be able to assist in reducing this tragic toll.

Regarding the problem of drinking and driving, an interministerial committee from the Solicitor General, the Attorney General, and Transportation and Communications has put in place a survey of drivers to learn the extent of the problem. It cannot be properly understood from accident reports alone. The survey was conducted in representative communities and highway intersections throughout Ontario. The statistical and other information gathered is now being evaluated, and we expect to be able to publish a report shortly.

I would like to comment briefly on the beneficial effects already being felt in response to some new legislation we introduced last December. At that time, an amendment to the Coroners Act was passed, aimed at increasing the supply of pituitary glands. This amendment was supported, I think, by all members of the Legislature.

There were then between 100 and 200 Ontario children who suffered from a deficiency of growth hormones, resulting in a form of dwarfism. The deficiency can be successfully treated, as I said at the time, through injections of an extract made from pituitary glands. Before we introduced the legislation, only half the number of pituitary glands required was being obtained through donations. It was necessary to obtain the remainder through significant private expenditure, and the result was a tragically long waiting period for children who had such a desperate need.

Our new amendment permitted a pathologist to remove the pituitary gland in the course of coroners' autopsies and pass it along for use in assisting these children.

I am pleased to report this legislation has resulted in an increase of more than 2,000 additional pituitary glands being received for treatment and there has also been a marked increase in donations. It is a gratifyingly prompt and tangible response to legislation passed with the support of both opposition parties, particularly in this International Year of the Child.

In another area of legislation, amendments were made to the Ontario Police Act to remove the requirement that three-member police commissions must include one member who is a county or a district court judge. There have been difficulties in some areas of the province in finding a judge who can assume or carry the extra-judicial duties associated with board members. Notwithstanding the fact there is still some controversy surrounding the appointments of judges to police commissions, I am still strongly of the view that it is important the judiciary be available to lend their independence, impartiality and experience to the commission system. In my view, the public appreciates the clear benefit derived from the participation of the judiciary in the supervision of police forces.

Regarding the pilot project for Metropolitan Toronto concerning civilian complaints against police, I can advise you that legislation should be ready for consideration by the House very shortly. The consultative process with the local authorities involved is ongoing in a very positive way, and the legislation is now being prepared.

Further in reference to law enforcement and our police forces, this week I announced the formation of a task force to conduct a wide-ranging study into the racial and ethnic implications of police hiring, training, promotion and career development. This study is intended to assist police as they face the challenges of an increasingly complex and pluralistic society. The police community is—and I want to emphasize this—sensitive to these issues and has encouraged our initiative in this direction. We expect an interim report on the province-wide study in March and a full report in June.

[3:45]

I would like to address myself to a matter of considerable concern to me, and that is the accusation that officers of the Ontario Provincial Police are being used as strike-breakers. In my view, such charges are not only the height of irresponsibility, they are also a crock of sheer nonsense.

Mr. Renwick: I think that is an irresponsible statement on your part. Perhaps we can deal with that when you have completed your statement.

Hon. Mr. McMurtry: I would like to state as emphatically as I can that no one—most of all the officers themselves—likes to see police intervention in strike situations. Such interventions are costly, frustrating and occasionally even dangerous to the officers involved. In most cases the OPP officers are brought in only after a request from local municipal authorities and only where there is considered to be danger to persons and property of those involved in the dispute.

The police are there for one reason only, to preserve law and order. They are there to protect the rights of both sides, and in most cases they do so with a patience and dedication that deserves the respect of us all. To suggest they are there for any other reason is to encourage the kind of disrespect and suspicion that, personally, I find very distasteful.

As I said at the outset, it has been a very busy year for this ministry, and I think we can be proud of the dedicated fashion in which the men and women of its various branches have served us. There is the example of the OPP and other organizations in Mississauga. Despite the dimensions of the problems, it is my belief that because of the exemplary actions of all those involved it will go down as one of the more inspiring chapters in our province's history.

Another upbeat note for the OPP was the enormously successful "sting" operation recently in the Ottawa area which resulted in the recovery of about $1 million in stolen property and the laying of more than 400 criminal charges.

In Belleville, a joint operation involving the OPP, the Ontario Police Commission and Belleville and Trenton police forces has resulted in a number of charges, and we believe has broken up an arson ring that caused about $1 million property damage.

The Ontario Police Commission continues its valuable work in liaising with and providing assistance to police forces around the province. The Ontario Police College continues to be an invaluable vehicle in the education of our police officers and enjoys a world-wide reputation for the quality of its courses.

The Ontario fire marshal's office conducted more than 1,600 arson investigations—I think 1,727 to be accurate—and 585 criminal charges have been laid. In addition, experts from that office continue to render assistance, in the form of lectures, to fire and police departments and to the insurance industry.

The ministry's forensic science laboratory, under the director Douglas Lucas, has been invaluable in a large number of police and fire investigations and has come to be recognized by other jurisdictions as one of the best anywhere. Indeed, jurisdictions have approached us with a view to having that service on a continuing basis.

The staff of the chief coroner's office continue to be diligent, dedicated in their work, and the value of the men and women who perform that exacting role across the province has been proved time and again during the past year.

Voluntary donations of human tissues and organs have increased substantially over the past year, thanks mainly to the efforts of those in the chief coroner's office to increase public awareness in this very vital area.

I believe we have another constructive year ahead of us for the continuing implementation of our programs, and I would now like to open our estimates for discussion by our honourable colleagues.

Mr. Mackenzie: I would like to raise a point of order if I can, Mr. Chairman, and I would like your advice on it. I have just heard and read what I consider to be a

totally irresponsible statement from the minister regarding the use of the OPP in Ontario. I am wondering if he can give a brief response to figures about a picket line with fewer than 100 women involved and with 520 officers, 523 officers, 560—over 10 per cent of the OPP force in Ontario?

Mr. Kerrio: Point of order.

Mr. Mackenzie: What were they protecting?

Mr. Kerrio: On a point of order, Mr. Chairman.

Mr. Chairman: I am sorry, that is not a point of order. I will be happy to put you on the list and allow you to disagree with the minister on his opening statement.

Mr. Mackenzie: I am not sure that sort of statement should be made.

Mr. Kerrio: What's not a point of order? Mr. Chairman, I would like to speak to a point of order, and I am entitled.

Mr. Chairman: I have heard you raise a point of order, and I am addressing myself to the first point of order. If you will wait your turn, Mr. Kerrio, then I will deal with any other point of order you may have.

Mr. Kerrio: That's very fine, but I think I should have been allowed before this interjection took place because that was my point of order.

Mr. Chairman: The original speaker spoke on a point of order. I told him I disagreed —that it was not a point of order. I have dealt with that matter now.

Now you have a second point of order.

Mr. Kerrio: I concur wholeheartedly with your decision.

Mr. Chairman: Fine. I am glad that you do. We will now hear from the Liberal critic, Mr. Kerrio.

Mr. Kerrio: Thank you very much. Before I begin my remarks, Mr. Chairman, I would like to record my pleasure at having this opportunity to participate in these estimates for the first time as critic of the Solicitor General. I am pleased that we have this forum where we can engage in a more thoughtful and extended discussion of the performance and policies of the ministry. I trust the minister will find this process and, in particular, the input from the members of this committee, as much a learning experience as I expect it to be.

In preparing for these estimates, I felt the starting point should necessarily be an understanding of the role of the Solicitor General in the administration of justice in this province. In simple terms, the Solicitor General has a responsibility for the enforcement of law and maintenance of public safety in this province. In some instances, he has direct responsibility for law enforcement and public safety programs; in others, he works in a supervisory capacity, especially through the setting of policies and standards for conduct of the relevant bodies falling within his jurisdiction.

The present office of the Solicitor General is a fairly new creation, having been established in 1972. The Solicitor General was made a member of the executive council and was given certain powers of administration over a number of public acts, including the Police Act, the Coroners Act and so on.

I am not a lawyer nor am I a constitutional expert but it seems to me there was some merit in establishing a cabinet post that had supervision over police matters in this province, a post that was separate from the supervisory role over crown attorneys which resides in the Attorney General.

There is a certain logic in separating the police—that is, the person who arrests, who in effect is the accuser—from the crown attorney, who is the lawyer who prosecutes. That logic is established in our common-law tradition, especially when we view the nature of the role of the crown attorney, who is a law officer of the crown and a servant of the court. The crown attorney is not a prosecutor for the police.

I want to make it clear I am not saying present crown attorneys are prosecuting for the police—far from it. But it seems to me we should make every effort to give the semblance that these functions are as separate as possible. In practice, for the most part, police officers and crown attorneys respect this distinction and abide by it. I believe the government should do likewise and should follow the spirit of the legislative change that was made in 1972 when these two ministries were assigned those distinct functions, to ensure that two separate persons carry out the separate roles.

My lawyer friends tell me of the old adage in law saying that justice must not only be done; it must be seen to be done. They also warn me it is a saying that has grown tired by overuse. But I like that phrase and I think it should be used as long as it is good advice. I believe it is good advice in this situation.

When the Attorney General was appointed to act as Solicitor General back in September 1978, the Premier (Mr. Davis) said the Attorney General would hold the post no longer than a few weeks. The Attorney General himself stated that "on a long-time" basis there are many advantages in splitting the two

posts. He also said that if a conflict arose between the two positions, he would publicly say so and advise the Premier. Let's look at an example of a possible conflict between the two portfolios, and perhaps later on during the estimates the minister will explain why he felt no need to advise the public that a conflict existed here.

Take the shooting of Albert Johnson. In a case like this, there's an argument to be made that a coroner's inquest should have been called, and that the coroner's inquest is only abrupted if and when charges are laid with respect to the incident. Indeed, members of the Legislature made such an argument. Instead, an investigation by the OPP was conducted, and charges were eventually laid against the two police officers following consultation with members of the Ministry of the Attorney General. At the bail hearing, the crown attorney said he wanted to make it clear there was no evidence the shooting was racially motivated.

I want to state emphatically I am not suggesting anything wrong may have been done here. But the appearance of what occurred could lead to apprehension about the process in some minds—in the minds of even reasonable men and women.

Jurisdiction over the OPP, the Metro police to a less direct extent, and the chief coroner resides in the Solicitor General. Jurisdiction over the crown attorney and the protection of the interest the public has in the administration of justice reside in the Attorney General. Yet the same man occupies these two roles.

How were the conflicting interests of the requirements of the Coroners Act, the investigation by the OPP, the rights of the accused, the role of the crown attorney, the principles of law and justice and the public expectation of their system of administration of justice all accommodated and balanced when the supervision of all these interests lay in one person?

Certainly we have created procedures in our justice system to ensure that conflict between various interests acts as a check and balance to arbitrary decisions, or the semblance of arbitrary decisions. I am not suggesting that wrongdoing resulted here. But I do suggest we have established distinct procedures and duties for a purpose: to ensure that justice be seen to be done. Trite phrase that it is, it makes a lot of good sense.

While we are still on the issue of holding two offices, I would like to make some comments on the matter of police complaint procedures. It was suggested we are in the process of taking care of this. I trust that in the near future the Solicitor General will be advising us on his legislation in this area so that we may have the opportunity to discuss the issue during these estimates. I also hope he will bring in legislation regarding this matter during the current session.

All that aside, I do not believe the minister should get off so easily. The issue of police complaint procedures, or civilian review boards, has been a matter of great concern in this province for a long time. Certainly since the Maloney report and the Morand commission the need for an adequate structure to handle civilian complaints relating to police activities has grown tremendously. A former Solicitor General took a few hesitant steps in this direction. The last concrete legislative proposals in this area were in the 1976-77 session. And it stopped.

Were Maloney and Morand proved wrong? Not by a long shot. Recent events have highlighted the long-existing problem to such an extent that the government has felt compelled to act again. Why was there no action in the two years previous to this? Why was this matter not a priority with the present Solicitor General when he took office? Quite frankly, did he have the time? On his appointment to the office, in September 1978, he indicated his paramount responsibility would still lie in his capacity as Attorney General. I can appreciate that.

The Attorney General has an extremely important role to play in the administration of justice in this province. If the Attorney General is overworked, I can appreciate that as well. I commend him for his dedication. Nevertheless, time constraints in a job are one thing. Trying to do two jobs at the same time is another.

I am not suggesting the minister has been irresponsible. Surely his performance during the Mississauga derailment incident deserves nothing but praise. But surely, apart from policy reasons, two separate ministries exist because there are two full-time jobs there. I know these ministries have excellent staffs, but nevertheless a minister performs a pivotal and important function. I would expect that a minister's job should require his undivided attention.

[4:00]

Apart from the minister's role, I would like now to address myself to particular policy issues which I would like the minister to comment on at some time during these estimates.

In the course of the recent controversies in Metropolitan Toronto arising out of the police shootings, many people have suggested

the reform of the membership of the Metropolitan Board of Commissioners of Police is long overdue. The Robarts Royal Commission on Metropolitan Toronto recommended in June 1977 that the Metro council be given responsibility for policing in Metropolitan Toronto. The Conservatives' own white paper in response to the commission's recommendations advocated a move to three Metro appointees and two provincial appointees.

The city of Toronto's executive committee passed a resolution advocating a Metro-controlled police commission. The Pitman report recommended changes in the composition of the membership, suggesting that the composition should better reflect the cultural and racial diversity of the metropolitan population. Cardinal Carter, while he declined to comment on the actual composition of the commission, did recommend that a committee be established which would serve as a link between the commission and the visible minorities themselves.

All these studies and recommendations underline one important fact: that change is long overdue. The Liberal Party has long endorsed the view that Metro's police commission must be made more accountable and democratic; it should have a majority of elected representatives from Metro. It should reflect Metro's social and cultural diversity. The existing provincially controlled board is too isolated and remote from public concerns.

Another issue that concerns me is the ever-present problem of vandalism. In a recent report of the Toronto Board of Education, published in September of this year, the statistics set out therein clearly indicate that vandal activity is on the increase. This is evidenced by the fact that during the period January 1 to June 30, 1979, there were 112 separate break-ins at 68 of the board's schools, as compared to 75 break-ins at 51 schools during the same period in 1978.

Property damage in 1978 amounted to $859,916, while the projected figure for this year is $948,076. In constant dollar terms, property damage to Toronto schools resulting from vandalism has remained relatively constant throughout the decade, due primarily to the efforts of the Toronto Board of Education, though this year there is a projected constant dollar increase of three per cent.

In Hamilton, property damage in the schools directly attributable to vandalism rose to a record high of $80,000 in the first quarter of this year, up $27,000 from the same period last year.

The primary method used by the Toronto board to combat vandalism in the schools has consisted of the installation of surveillance protection systems. All schools in Metropolitan Toronto are at present protected by surveillance protection systems that are capable of detecting and sounding an alarm in the event of fire, loss of heating or intrusion. The board views vandalism as a very serious problem that must be confronted immediately. Accordingly, it recently established a vandalism committee to report on ways and means of reducing vandalism in and around the board's schools. Its first meeting was held on September 26 of this year.

I do not mean to suggest that schools are the sole object of vandal activity. I have focused on the schools as an example of vandal activity because they have been the subject of statistical scrutiny.

It is difficult to assess accurately community damage directly attributable to the activities of vandals. However, the lack of statistical data should not be allowed to undermine the severity of the problem. Metro police estimate that vandalism costs property owners in Toronto more than $15 million annually, a loss that has prompted the formation of a group of concerned citizens, known collectively as Vandalism Alert.

Vandalism Alert is at present conducting a pilot project in the south Riverdale area of Toronto involving children and youths aged seven to 21. As part of their pilot project they have established a drop-in centre located in the Riverdale Community Centre, and have set up a reward incentive program amounting to a competition among neighbouring schools to see which school can sustain the least amount of damage by year-end.

Vandalism Alert is attempting to go into the community to determine and meet the community's needs. At present they are being funded by the United Way and the Kiwanis. However, the amount they subsist on is minimal and they are continually in search of alternative sources for funding.

Discussions with the members of Vandalism Alert suggest that vandals are usually juveniles who damage property in the pursuit of recreational activities. Vandalism is rarely premeditated, but is usually the result of spontaneous action.

Studies suggest that vandalism is usually present in communities having a large youth population and consisting of transient families living in high-density dwellings. Efforts that attempt to influence any of these factors may have a direct impact on the incidence of vandalism.

The police can often be instrumental in directing young people towards constructive

activity, such as that being promoted in Vandalism Alert's drop-in centre.

A number of possible solutions exist to the problem of vandalism. Though no solution by itself could correct this problem, collectively they could help to alleviate the existing upward trend in the activities of vandals. Some possible solutions include the TOP program, Teens on Patrol, which is being jointly funded by the ministries of the Attorney General and Solicitor General, the PRIDE program, legislation increasing fines for property damage and making parents responsible for the actions of their children, financial incentive programs, restitution, Neighbourhood Improvement Programs and the use of security guards. I will elaborate on these when the appropriate vote arises in these estimates.

Another matter I would like to raise with the minister is the performance of the liaison groups on law enforcement and race relations.

During the estimates of the Solicitor General last year, the then minister, the member for Burlington South (Mr. Kerr), commented on the success of these groups. He spoke of how they bring together different members of the public, including members of visible minorities, social workers, community counsellors and police, to try to resolve the problems they share.

We wholeheartedly support the purpose of these projects. We recognize they are new projects and their terms of reference bring a whole new dimension to the relationships between the public and the police. We recognize how fragile their foundation is. For these reasons, we believe special attention has to be shown to these programs.

It is precisely because of this view that we are at present concerned about the performance of these groups. A recent study by John Gandy, a professor at the University of Toronto's faculty of social work, released under the auspices of the Metro social planning council, identifies a number of serious problems with the structure and performance of these projects.

I am sure the minister has seen the report and is studying it, but I wish to raise some of the points it discusses so as to highlight my concern for the minister and this committee.

Professor Gandy indicates that from the start there were conflicting expectations on the part of the police and community members with respect to the roles of the liaison group. The inability to iron out those fundamental problems led to a loss of a number of community members, resulting in a high and constant turnover in the composition of the groups.

The major difference of opinion centred on what was perceived to be a far too passive approach being taken by the liaison groups. According to Professor Gandy and his research team, the committees did not go into the community to see whether the relevant members had complaints against the police, nor did they approach ordinary police officers to determine what complaints and grievances they had.

Moreover, the committee often acted as mere channels for the conveying of concerns raised by citizens expressing complaints, when their more appropriate function, given their composition and status, should have been to receive and discuss these concerns and attempt to deal with specific incidents in the overall concept of police-citizen relationships.

While the committee was established to promote communication, there appears to be concern that this fundamental role was not fulfilled. According to Professor Gandy: "An observer at the meetings of the pilot committees is aware of the low level of communication between members at the meetings. Most committee members talk at one another rather than communicate." This problem is enlarged due to the large turnover of the members and the unique and new role that has been played by the members who did participate.

Indeed, from the police point of view, their response to concerns and questions was often legalistic or concentrated on explaining the organization and methods of the police, the present procedures for handling citizen complaints and so on. The committee never managed to get beyond descriptions of existing procedures, nor did it ever really manage to discuss to what extent traditional police practices had a positive or negative impact on police-citizen relations, or the role of police and the allocation of police resources in helping to resolve community problems.

In the context of this formality and the lack of communication between police and community members, Professor Gandy raised a concern that an unanticipated consequence may be the reinforcement of preconceived notions or prejudices of each group about the other, or the enhancement of the notion of an adversarial relationship between the police and the public.

Mr. Chairman, there is far more in the report which deserves attention, and I trust we will be able to discuss these matters in the course of these estimates and also outside this committee, because I believe these

projects are important and an innovative experience and should be encouraged as far as possible.

In the course of the upcoming votes I will raise a number of issues, and I would like to pinpoint some of my concerns. I am interested in the question of police recruitment and training. A number of serious questions have arisen in the context of the police debate following the recent problems in Metro Toronto, and I feel these questions are matters of policy that should concern us here.

I would also like to discuss with the minister the question of budget allocations within police forces, and to what extent we may be spending a disproportionate amount of money and time on certain low-value property crimes while missing a lot of equally important and perhaps more serious high-value crimes, such as white collar crimes.

I would like to talk about coroner's inquests and what changes the minister is considering in their function following the recommendations of the jury in the Buddy Evans inquest, and also given the facts that the minister was not inclined to use the coroner's inquest for the Albert Johnson death.

Other issues I would like to talk about, as they relate to areas in the estimates, are arson, traffic control on the highways, which the minister related to in his opening statements, service of documents by police—is there not a more efficient manner rather than using police?—community and youth bureau.

Hon. Mr. McMurtry: I may have missed something. What came after traffic control?

Mr. Kerrio: Radio communications problems. You are very concerned with that particular issue; you discussed it with the police commission and we were concerned about alternatives as it relates to safer high-speed chases, if we really had adequate communications to go the other route.

The service of documents by police—is there a more efficient way to do that, rather than by using the police?—community cops and youth bureau. Those are areas we would like to talk about as those matters come up on various votes.

[4:15]

Since you made some reference to the problems at Mississauga, Mr. Minister, I would like to go on record here. First, I would like to commend you and your ministry for your participation as it related to the problem. I didn't want to raise this during question period at the height of the Mississauga events—it may have been misinterpreted and I was more willing to wait and do it here.

I have been very much concerned about problems that ultimately resulted in the derailment at Mississauga. I happen to live in an area that adjoins probably one of the highest concentrations of chemical producing manufacturers in North America, in New York state—in Niagara Falls, New York, specifically—six or seven major companies.

I was concerned at the outset because Penn Central railway had a shortcut between Niagara Falls, New York, and Niagara Falls, Ontario, and Windsor-Detroit. Penn Central was in very serious financial difficulties. When I first became concerned it was because they were not maintaining the rail in an adequate way. One of the first questions I raised with the Premier had to do with that problem. I subsequently raised it with the Minister of the Environment and with the Minister of Transportation and Communications.

I come from a mechanical background and I am much interested in the technology I see that was generated in the United States. There they discussed modern technology incorporated in designing railcars that would not be subject to burst or split when they are involved in derailment and certain severe impacts.

I brought this to the attention of the media and an article appeared in the Sunday Star, March 19, 1978. I would like to read my comment into the record: " 'It's a disaster waiting to happen,' Vince Kerrio says, 'watching a train rerouted from the United States going past the level crossing at Clifton hill—cars marked 'Danger, Combustible.' 'If one of these tank cars, running along, slipped the rails and split, it would take all of us with it.' "

This track runs within 100 feet of the heart of the city's tourist area and much of it runs through built-up neighbourhoods. So, in bringing this to the attention of the government, with my background of experience, I had hoped they would give some credence to these statements. There were already five or six major disasters in the United States. A car split in a very remote area and 12 or 15 people were killed from the fumes. We had seven killed from escaping chlorine in Niagara Falls, New York, at one of the large chemical plants. Over about a three-year period I have brought this to the attention of all the ministries I thought should be involved, yet nothing much was made of it.

Many people who function as I did in the private sector, without expertise in some field and faced with a dilemma, would go to

people who were expert, take a page from someone else's book. I am a bit disappointed that our neighbours to the south, because of their bigger denser population, haven't taken a larger involvement. You can rest assured that what transpires there will ultimately transpire here.

This may be something that is quite unrelated but the Honourable Judy LaMarsh was commissioned to look into violence on TV just after they completed such a study in the US. The two studies were practically identical.

I only bring that to your attention so that in future if someone refers to some matter as many times as I did to derailments the government may address itself to the problem much quicker.

Perhaps it would avert a serious accident. The government should not just react to some situations.

I think those will conclude my remarks until we get into the various votes.

Mr. Ziemba: A very disappointing opening statement coming from you. I expected something reactionary and there was nothing in it. You couldn't have written that yourself.

Mr. Kerrio: I am being very moderate.

Mr. Ziemba: What about capital punishment?

Mr. Lupusella: This is the third year I have dealt with the estimates of the Solicitor General and I am getting really frustrated. I get even more frustrated when the Solicitor General makes the statements he did regarding the charges made by responsible people—they are not irresponsible people—who said OPP involvement in a labour dispute amounted to strikebreaking. The Solicitor General said, "Such allegations are irresponsible and they are a crock of sheer nonsense."

In my opinion, such statements are a slap in the face to the trade union movement and to the workers of this province. It shows this government and the Solicitor General are completely irresponsible by not responding to particular needs and concerns affecting the citizens of this province. I hope the Solicitor General is going to withdraw such statements. We are not expecting the situation to improve when he makes such an irresponsible statement as he did.

I want to deal with this problem under the proper item because it needs a lot of attention. The issue has been raised several times in the Legislature. We introduced private members' bills to deal with this problem, but the government again responded with irresponsible allegations.

I want to deal in general terms now with the estimates of the Solicitor General. As I said before, every year I am getting more frustrated because I see no improvement in that field.

I welcome the opportunity to give my constructive criticism, hoping that the final result will pinpoint some of the weaknesses that exist in the administration of law enforcement across the province. Policing in Ontario is an important and fundamental task that needs constant and effective supervision by the Solicitor General and his administration, considering the fact that every citizen is affected by this ministry.

In theory, the objectives of the law enforcement process are to keep society in order and protect the rights and the property of every individual by assuring that everyone abides by the law of this land. Such theory is considered an important instrument required to secure the right of any citizen to live in an orderly society. Of course, the government plays a major role in achieving this goal by enacting legislation whenever it is required. But in essence, theory and practice are not homogeneous. Therefore, the application of good theory sometimes might be detrimental not only to society at large but also to the police and to the structure of law enforcement in this province.

We then get into a complex and controversial dilemma on how to lead the citizens to respect for the law and create a secure society. We are also confronted by the role of the police officer as the agent of law enforcement; on top of that we have the minister of the crown in charge of all the statutes and the mosaic related to policing in this province.

Before dealing with these items let me make a few comments on the role of the Solicitor General which in my opinion, and in the opinion of my colleagues and probably others in this House, is vital in achieving the objectives of maintaining a safe society through the law enforcement process. On previous estimates the critic of the Attorney General, the member for Scarborough-Ellesmere (Mr. Warner), echoed in a very adamant way the concerns raised by my colleagues, the members for Riverdale (Mr. Renwick) and Lakeshore (Mr. Lawlor), that the present Solicitor General has a clear conflict of interest by holding two portfolios, Solicitor General and Attorney General.

By sharing the convictions of my colleagues, I want not only to associate myself with their demands that the two ministries should be held by different ministers but I request the Solicitor General to ask the

Premier of this province to take immediate action in this urgent matter.

With all due respect to the Solicitor General, instead of reacting angrily to the criticism of my colleagues, of accusing them of trying to fabricate an issue, it is time for him to realize the conflict of interest that exists. It must be cleared up once and for all.

I followed with great interest the estimates of the Attorney General. If anyone will check into the records, the minister answering a particular question raised by one member of this House clearly stated he did not know whether he was speaking as the Solicitor General or as the Attorney General. With this I don't want to demonstrate the issue of conflict of interest, but this clearly indicates that the law enforcement process and the judicial process are two different elements that come into conflict when one is caught in the middle of responding to an issue that involves the judgement of either the Solicitor General or the Attorney General.

As I stated at the beginning, policing in Ontario needs a constant leadership provided by the Solicitor General. Holding two ministries—and I am not underestimating the capacity of the minister—sometimes can mean lack of time, lack of constant supervision and lack of legislation. These are key elements that can undermine the efficiency of the ministry.

We cannot afford to have a part-time minister when we are dealing with such an important task as the protection of all citizens of this province. We cannot afford to have a part-time minister when taxpayers are paying millions of dollars to get such protection in return.

Let me put it as bluntly as I can: if I were a minister holding two portfolios which constituted—

Hon. Mr. McMurtry: I ought to get two salaries. I only get one.

Mr. Lupusella: It's not fair.

—a conflict of interest I would be compelled to insist that the Premier appoint a new minister in charge of this important, complex, expensive and delicate portfolio of the Solicitor General. It was my impression that after Mr. Kerr's resignation the present Solicitor General was appointed on a temporary basis and not permanently as the case indicates at the present time.

In my previous estimates, I emphasized consistently and repeatedly that leadership is of paramount importance for the establishment of comprehensive, concrete and visible guidelines which in turn would promote efficient and adequate law enforcement and public safety, which is clearly under the jurisdiction of the Solicitor General.

It has been common practice in the past, and at the present time, that the Solicitor General becomes visible only when sensational issues occur and action is taken only if his course is not controversial in legislative terms.

[4:30]

On October 19, 1977, during the Solicitor General's estimates, I stated: "I would like to pinpoint to the Solicitor General that in the future I would personally like to see the ministry more visible. By that I mean I would like to hear from the ministry not only when a particular incident of wide public attention occurs or when a bill pertaining to the ministry is introduced in the House, but on a more regular basis, to know the direction of all policies, programs and so on."

Today we are still facing the same problem. The Mississauga disaster, or the Mississauga miracle as the Solicitor General said, is a clear indication that the minister has not as yet changed his practice.

Having said that, and without criticizing the evacuation success, the Solicitor General proved to play the role of the prima donna on the whole operation. On the other hand, when the danger cleared up and the victims were claiming compensation from CP Rail by signing waivers that excluded the CPR from any further liability, the Attorney General, or the Solicitor General as the case may be, showed much concern, with little action.

His sympathy is not helping the thousands of victims who have signed the waivers and were forced to exchange their legal rights for the out-of-pocket expenses they were faced with as a result of the evacuation. I am sure that action is more important than concern or sympathy at this point.

In spite of all the assurance given by the Premier and the Solicitor General on the floor of the Legislature by simply stating that other remedies will be implemented if CPR refuses to correct the situation, nothing has been done. I hope the minister will now be able to tell us what the remedies will be through concrete action instead of waiting for other victims to sign the form.

Another example of the minister playing the role of the prima donna without following through is the Albert Johnson case. Enormous controversy arose and the Solicitor General gained high visibility. However, little concrete action has been taken. Nothing has been done to solve the crisis of confidence in our police or to show the sensitivity by the government to the problems raised by the Johnson tragedy and its aftermath.

I am particularly worried about the detrimental effects caused by the insensitivity of the government in prolonging the problem without concrete legislative action. By neglecting this important task, the result is to leave the individual police officer to use his own judgement.

This judgement is framed by the paramilitary training at the Ontario Police College and the paramilitaristic attitude of too many police administrators. This training and this style or organization virtually ignore the vital personal relationships between the police and the public. This is dangerous for both the public and our police officers.

As a result of the Evans and Johnson cases, persistent pressure was used by the public at large and by members of Parliament as well to convince the Solicitor General to introduce the long-awaited citizens' complaint bureau. Such revelation finally came to light during the Attorney General's estimates.

My question is, why does the public have to wait so long for something which has been called for by not only members of this House during previous estimates or questions in the Legislature, but also by prominent people such as Mr. Morand, Mr. Maloney, Mr. Pitman and finally by Cardinal Carter? It is a frustrating process which alienates the public from something which is considered essential to the protection of citizens' right.

The alienation hinders confidence in the role of the police when dealing in the law enforcement field. The legislative tools must be used by the Solicitor General in order to adjust the police forces' role to the inevitable social changes which society is subject to.

It seems to me the Solicitor General is completely ignoring this traditional social and historic process. It was for this particular reason the task force on policing in Ontario came about in May 1972, when the then Solicitor General announced to the Legislative Assembly the establishment of the task force on policing in Ontario to undertake an overall review of the administration, the organization and the efficiency of the police force in Ontario.

The final outcome of this study was, in my own judgement, sensitive, constructive and of major importance for the implementation of its recommendations. We are all aware the suggested course of action has been practically implemented, but the principles and the spirit of the whole study have yet to take effect until the force will be more inclined to change its paramilitary attitude.

If the Solicitor General had an opportunity to review my previous criticisms related to his ministry, he would find I dealt at length with this particular topic. Inaction on his part is just a clear indication that policing deterioration will soon become inevitable, as recent incidents have proved.

We are all concerned to ensure citizen respect of the law, but we are also concerned that the public will conceive the police officers not as judges or prosecutors on the streets but as law enforcement agents only.

Again, I don't want to reiterate what I have expressed in the past. The judicial system has been established to bring to justice those who are breaking the law, and the Solicitor General must ensure that such a fundamental principle be highly respected and preserved. Furthermore, the police officer reflects at all times not only his academic background, which was taught at the Ontario Police College, but also his own pre-established character as a member of the community. The training he received is a reflection of predesigned programs and structures which partially tend to shape his personal performance of his future duties.

However, if the programs and training are not taking into account the fast changes of the diversified and complex society in which we are living, we cannot blame an individual police officer for his actions. His work becomes difficult and at times unbearable. It is the Solicitor General's duty to upgrade the police training programs to operate at a higher level of efficiency as a result of the society's pattern.

We are more inclined to criticize the individual police officer for his actions rather than the establishment of the police force and the government, who are decision makers and the shakers of the whole apparatus which regulates and controls the system. As I stated before, the police officer is also a member of the community and as such reflects some of the negative aspects of our society.

Sir Robert Peel, in 1829, described with an historic prospect the role of the police officer: "The police at all times should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police. The police are the only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interest of community welfare."

I am sure you will agree with me that the fundamental principles of Sir Robert Peel must be the basic concept upon which any police force is founded in order to be fully accepted by the community at large. As a result of that, good performance, trust and

efficiency of the police force becomes a must. There is, therefore, no room for police officers who portray negative attitudes towards the public. Society at large cannot afford it, and the Solicitor General has to prevent it from happening.

I intend to dwell at some length on the topic of racism in my opening remarks. I do this because I and my colleagues in the New Democratic Party caucus believe racism is an extremely important topic at this time. The failure of the government, and of the Solictor General in particular, to show greater leadership on the issue of racism is lamentable. We must do all in our power to oppose the spread or growth of racism.

Racism is an old problem and not easily solved. It is also a serious problem which cries out for political action. Racism attacks the very basis of a democratic society. The victim of a racist attack is not only physically abuse and psychologically humiliated, he is also denied his very basic rights as a citizen.

Members of groups who are targets of racial harassment live in fear. They cannot walk the streets, ride the public transit system or participate in countless other daily activities that are open to their fellow citizens. They cannot participate fully in society. The government, and the Solicitor General in particular, have a responsibility to assure all citizens that their basic rights will be protected and upheld vigorously by the police forces of Ontario.

Racism is irrational. A racist never treats his victim as a human being with feelings and rights. He focuses on the one attribute—the colour of the victim's skin, the cultural trait, the manner of dress or the manner of speaking. It is not surprising in times of economic difficulty and insecurity that such attacks take place. Therefore, it is even more essential that we as legislators and the Solicitor General as the chief law enforcement officer of Ontario do all in our power to prevent these outrageous and irrational acts from occurring.

I want to be perfectly clear. I am not raising specific complaints against members of our police force. They are serving the public and they often risk their lives in order to serve the citizens of this province. I am simply saying that in terms of their dealing with identifiable minority groups they are often poorly trained and not given the proper skills. Furthermore, I am stating my strong dissatisfaction with the methods we have of administering our police forces and dealing with complaints against police officers. Having made my respect for individual police officers clear, I wish to proceed with my discussion of racism and express my dismay at the way the Solicitor General has acted.

The Solicitor General is well aware of the existence of racism in this society. He has had, for a number of years now, the report of Dr. Ubale. That report was financed by the East Asian community in order to document fully and completely to this government the reality of racism in this province. Reading the report one becomes horrified about racism incidents which occur daily in the city of Toronto and other places. There is case after case of racist attack, and the failure to redress these attacks or provide justice to the victims is outlined in that report. The report cried out for a response, and the government saw fit to publish a pamphlet outlining its commitments to racial justice in this province. Clearly, more than a pamphlet is required.

[4:45]

Last year Walter Pitman published his report, Now Is Not Too Late—another report that said racism existed in Metropolitan Toronto but that there could be positive steps taken to improve the situation. At the same time, the Toronto Board of Education established a working group and published a report containing many recommendations on what the school system could do to combat racsism. The Toronto Board of Education has made that report policy.

As a result of the tragedy of Albert Johnson and the public outcry, Cardinal Carter was appointed to investigate allegations of racism in Metropolitan Toronto. His report is very clear, and I have already read his major findings into the record of the assembly during a "late show." Let me only repeat the cardinal's principal findings. He stated there is no doubt that racism exists in Metropolitan Toronto. Cardinal Carter said most members of visible minorities were afraid to seek redress for alleged grievances against police officers. Surely this report cries out for immediate action.

Reports and studies have a place in our system, but perhaps the most telling arguments are those we hear from the people who come to our constituency offices. Mr. Solicitor General, I am aware you spend a great deal of time in the communities of the visible minority groups. I think it is good you do that.

In the riding of Dovercourt, I meet people from these visible minority groups also. So I imagine that you, like me, are well aware of their fears. I am sure you have heard of the fears of black Canadians and East Indian Canadians when they tell you how

often they are asked to prove they are citizens when stopped by the police, or to prove they are not illegal immigrants.

I have often heard from people who have made specific complaints against the police. However, persons making these complaints are unwilling to pursue them in an official manner because they rightly or wrongly fear some form of retaliation.

You are also aware of the growing arguments made in certain communities that they cannot trust the police and must band together for their own self-defence. I find it very difficult to deal with these situations. They are very real and very true perceptions of many people in my riding. I am unable to give them any assurances that the Solicitor General of this province is taking action to alleviate the present situation.

I have often in past estimates criticized former Solicitors General for the fact that only 20 per cent of the police force's time is spent in crime prevention. New Democrats have always believed the emphasis of policing should be on prevention. In the matter of racism, the task is to convince racists they will be punished for their actions.

The goal is to assure potential victims they will be free from physical attacks, from verbal slurs and other forms of humiliation as they carry on the normal business of living in Ontario. No Ontario citizen should be afraid of being harassed when he or she goes to a shopping plaza or walks home from the subway. No group of Ontario citizens should, as a matter of course, have a sense of fear when stopped by law enforcement officers on routine matters.

It is normal in debates in the House or in committee to raise matters on which we have a fundamental disagreement with the governing party. That, of course, leads in some instances to political gain. Such is not the case in the matter of racism.

I do not believe the Solicitor General or most members of the government endorse racism or find it acceptable in our society. Nor do I believe that most members of the Liberal Party would condone racism. Nevertheless, I feel it is essential that the problems of racism be considered very carefully in these estimates. While acknowledging there is no fundamental disagreement, I am concerned that there is a basic difference in our recognition of the sense of urgency in this matter.

I was disappointed when the government announced it would take no legislative action against racism. I recognize Dr. Ubale's qualifications, but the creation of a new post in the Ontario Human Rights Commission runs the risk of being seen as tokenistic.

The Solicitor General knows these are matters that will require considerable debate by the House. Delay may in many ways make it impossible for the House to take action before it rises in December. I understand the Ontario Human Rights Code is the responsibility of the Minister of Labour. Nevertheless it is extremely important in the area of racism and I can see nothing to be gained from a continued postponement of necessary action. The debate on the civil review of complaints against law enforcement officers has been a long one. What was required was not further study, but a commitment by the government to produce, in as short a time as possible, an acceptable manner of dealing with complaints.

I do not understand the government's delay. Mr. Solicitor General, I suggest, with all due respect, that any action you or your government might propose that would do anything to lessen the problem of racism in this province would have won the support of the New Democratic Party and assured its passage. I suspect the Liberal Party would also have quickly endorsed any constructive measures you might have proposed.

I don't think I am being naive when I state that it would be unnecessary to have had any political confrontation over this matter. I believe most members of this House are high-minded enough to facilitate legislative action on this serious matter and I simply cannot understand the continuing delay on the part of the government. The situation is not improving and will not improve until leadership is displayed by this government.

What am I suggesting you should be doing? I have often spoken about police training in these estimates. I can only repeat my concern that candidates wishing to become police officers are thoroughly trained in psychological and sociological methods of understanding and dealing with our very diverse population. This type of action will not only provide for more satisfactory resolution of problems, but it will also give police more confidence in their ability to deal with racist incidents.

I have repeatedly raised the matter of police training with the Solicitor General and I am disappointed with the lack of response in this area. The leader of my party and I visited the police in London, Ontario, and found they had very successfully developed methods for dealing with

crisis intervention. I see no reason for the OPP and other police forces throughout the province not to learn quickly from this example. I am not making terribly specific suggestions today, but the direction in which I feel the police should be moving is quite clear.

The matter of police recruitment is also extremely important. For various reasons police forces throughout this province have failed to adequately recruit members from minority groups. Given what I believe to be the proper role of the police—that is, to become the servants of the community and deal with their problems regarding safety and law enforcement—height and weight are less important factors than ability and sensitivity to the community served. When we speak of the need to have more black policemen we are pointing out the fact that blacks have lived in Canada for a long time and for no good reason are under-represented in the police forces of this province.

This is a situation that simply must change. Anyone who walks the many streets of Toronto where English is not the major language of use will become immediately aware that it would be advantageous to have policemen who speak other languages besides English. It will make them more effective and more responsible law enforcement officers. Police recruitment of minorities must be given renewed attention.

I notice that the Ministry of Culture and Recreation lists on page 14 of its publication, Ontario and Multiculturism, as an accomplishment of this government, the encouragement of the recruitment of minorities on the police force. It is unfortunate that this accomplishment is not readily apparent to members of visible minority groups.

New Democrats are greatly concerned about police administration as well. The many thousands of fine police officers in this province are hampered in performing their duties, not only because of the missing elements in their training but also because of the lack of leadership by the Solicitor General and by local police commissions on a number of matters.

The events following the Johnson tragedy in Metro Toronto tell a very clear lesson. The police commission came under tremendous pressure. Again, I am in no position to make a specific accusation about the Johnson case because it is before the courts; however, I am deeply concerned about the failure of the commission to respond directly to the more general problems raised. It clearly illustrated that police commissions are far too important to be stocked by political appointees who have no direct responsibility to their electorate.

I am pleased the commission is finally taking action on Cardinal Carter's report. But when we realize that Cardinal Carter is adding nothing new to what was already known about the relation between police and the minorities and about the volatile situation in Metropolitan Toronto, it surely indicates the police commission has been far less than responsive to a most serious problem.

This unresponsiveness cannot be tolerated any longer. I urge the Solicitor General to at least accept the recommendation of the Robarts commission that the metropolitan government be allowed to appoint the majority of members and the chairman of the police commission. It is my hope the province will go even further and allow for greater power to go to the municipality of Metropolitan Toronto. I call upon the Solicitor General, as the chief law enforcement officer in this province, to take immediate action. I am sure there would be no difficulty in achieving passage of bills aimed at these reforms before the House retires.

A further direction I urge upon the Solicitor General is that he take strong action to show that racist attitudes will not be tolerated on the police forces of this province. Most police officers are not racist. However, it is essential if we are ever to control racism in this province that we make it clear people will be disciplined for racial slurs. It is interesting to me that the Toronto Board of Education has developed a very clear policy for dealing with any sign of racist attack, be it verbal or physical, by teenagers in its schools, while the Toronto police commission is less able to deal with far more serious racism when it occurs among its members.

[5:00]

The NDP expects more from the chief law enforcement officer of this province. We realize racism cannot be overcome by discipline or by words alone. It requires tough and direct action whenever overt acts of racism occur. I repeat, how disagreeable it is to me to be obliged to discuss racism in this political atmosphere. It is only the importance of the topic that compels me to continue.

It is my hope it is again abundantly clear to the Solicitor General that the New Democratic Party is most desirous of seeing concentrated action against every form of racism in this province. We want to see a change in the policies of the police forces of this province and we want action on the required amendments to the Ontario Human Rights Code. I again repeat that I do not perceive

there should be a fundamental disagreement that action should be taken on racism.

There are many disagreements between my party and the other two parties elected to this House. We disagree very strongly about the role of the police in the settling of labour disputes such as the Radio Shack dispute in Barrie, and others. We believe the police force is wrongly used there when it is used to break a lawful strike. There is substantial disagreement among us. However, in the case of racism, it is not so much a matter of disagreement as it is a different perception of the urgency and efficacy of taking action.

When you can walk our streets and drive on our roads without the fear of a racist attack or without the fear of an unpleasant experience with a law enforcement officer, racism does not necessarily seem to be a pressing matter. I guess the Solicitor General recognizes the tone of this statement. However, when the colour of your skin, the way you dress or the accent with which you speak makes you feel vulnerable to these abuses, racism becomes the most pressing issue in your life. It is the one area where you can justly expect your government to act to protect you.

The interesting point is, all of the studies say two things. First, they say there is a very serious problem. Many of our citizens—some of whom have been here three and four generations—are denied the basic rights of a democratic society to be able to move about and live without fear of attack. Second, while recognizing a substantial problem, all the reports say constructive action can be taken to prevent racism from getting worse and to move in co-operation with all our citizens to overcome many of these problems.

In a multicultural society, it is necessary that we work extremely hard to appreciate one another and to protect one another. The police are central in this activity and I urge the Solicitor General to reconsider his position and come forward with a clear response to the recommendations which I have repeated here today. I realize much of what I said has been said by myself and my colleagues in numerous previous estimates of this ministry.

My hope is that as a result of all of the events that have occurred since this committee last sat to consider the estimates of the Solicitor General the minister has been persuaded to reconsider the matter and will be in a position to give us his undertaking that there will be changes in the police college, that there will be new priorities on giving the police better tools to deal with volatile situations and there will be clear directives about means of combatting racism within our police forces and our society.

With this final statement, Mr. Speaker, I would like to conclude my opening statement. I am going to deal with the other matters related to the improvement and the betterment of the policing in this province in the particular vote of the estimates. Thank you.

Mr. Chairman: Thank you, Mr. Lupusella. I've been mistaken for the leader of the NDP, for the Attorney General and now for the Speaker, so I guess I don't know quite who I'll be next, but thank you for your comments.

The Solicitor General will now reply.

Hon. Mr. McMurtry: Thank you, Mr. Chairman and colleagues. First of all, I should like to say this is the first opportunity I have had to be involved as a Solicitor General during the estimates debate and state that I am looking forward to the opportunity to debate these issues with my colleagues, particularly the Solicitor General critics in both of the opposition parties.

Some of you apparently have expressed the view that this should be my first and only opportunity to be involved in the estimates debate as Solicitor General, and whether that is going to be the case or not only time will tell, but I do welcome the contributions that have been made by my critics and look forward to our further discussions.

Mr. Kerrio: You can't share any cabinet shuffles with us, eh?

Hon. Mr. McMurtry: No, I'll read about them at the same time you do.

I don't want to get into a long discussion in relation to the issue that was raised in the opening statements of both opposition critics in relation to the separation of the Attorney General and Solicitor General ministries in so far as having two separate individuals hold both portfolios. This was discussed at some length during the Attorney General's estimates, but in view of the fact that perhaps neither of the Solicitor General critics were there, and in view of their remarks, I think I should refer briefly to this continuing issue.

I want to preface my remarks by stating that I have no proprietary interest in retaining two portfolios. I am sure every ministry of the government would probably prefer to have its own minister and not share that person with any other ministry. Be that as it may, I reiterate what I said during the Attorney General's estimates: I just absolutely reject the suggestion or the proposition that there is any conflict of interest in respect to the same individual holding these two portfolios.

The responsibilities are combined in eight of the 10 provinces of Canada. Indeed, the Attorney General has such basic responsibilities in relation to the proper administration of justice in this province, in relation to the rights of the individual, that whether there is another person holding the portfolio of Solicitor General or not the Attorney General of necessity must interest himself, or herself as the case may be in the future, in the activities of the police forces of this province.

That fact, as I said in the earlier estimates, was touched upon by the member for Riverdale (Mr. Renwick), the former leader of the New Democratic Party (Mr. Lewis) and the member for Lakeshore (Mr. Lawlor).

It was touched upon by our late and esteemed colleague from Sarnia, Jim Bullbrook, and I believe the former member for Downsview (Mr. Singer) when they, as you will recall, spoke against the bill that was introduced in the Legislature, I think in 1972, which separated the two ministries inasmuch as it established the Ministry of the Solicitor General.

The argument they put forward was that the traditional responsibilities of the Attorney General were so broad and since they touched not only the proper administration of justice and the rights of the individual, the removal of the police responsibilities from the Attorney General's ministry undermined his overall accountability for the proper administration of justice.

I repeat what I've said before: I realize all of us as individuals have a perfect right to change our minds about these issues, but the administration of justice and law enforcement in this province must be in better shape than even I had believed for the opposition parties to feel it necessary to continue to speak about an issue which in my view is simply not a legitimate issue.

The word load is something we can reflect on at some other time perhaps. As I say, I have no proprietary interest in holding on to both ministries, but I have to emphasize my total rejection of the suggestion that there is any conflict of interest. The suggestion that the Attorney General who also serves as Solicitor General, given, for example, a controversy between a police department and the individual citizen, is somehow constrained in the performance of his duty because of his responsibility for the police on the one hand and his responsibility for the proper administration of justice and proper law enforcement on the other hand, or that he is somehow faced with a conflict of interest in those circumstances is to ignore totally the traditional responsibilities of the Attorney General with respect to the administration of justice and with respect to the rights of the individual, which do not change when a Ministry of the Solicitor General is created.

Mr. Kerrio perhaps misunderstood something I said when he suggested earlier that my paramount responsibility was to the role of the Attorney General and therefore I didn't have much time for acting as Solicitor General. I think perhaps he may have misconstrued what I certainly intended to say on that occasion and that is, regardless of whether I'm serving as Solicitor General or not my paramount responsibility is to the proper administration of justice, to the rule of law, and that would have to be my overriding consideration regardless of whether I held that portfolio or the responsibilities of the Attorney General and the Solicitor General or not.

That, of course, continues to be the case. That's not to suggest that the Solicitor General doesn't have an equal responsibility as a senior law officer of the crown to the proper administration of justice and the rights of the individual, should they come into conflict with the policies of a police department or an individual police officer.

In relation to the civilian review boards and the suggestion that the government has been dragging its feet in relation to the creation of civilian review boards, I'd like to just make the point that in my view police commissions were intended to serve as a form of civilian review board and the citizen who has a complaint against the police should have access to the local police commission. The local police commission should deal properly and fairly with that complaint.

[5:15]

In the event that the citizen is not satisfied with the handling of the complaint, then the citizen should have access to our Ontario Police Commission, which also should be regarded as a form of civilian review board. I think during this whole debate and controversy we've lost sight of the fact that we have had a form of civilian review in relation to police activities in this province for many years. I'm talking again, I repeat, about the local police commissions. These commissions, both local and provincial, are made up of civilians—non-police personnel. The very fact, I suppose, that they're called police commissions creates misunderstanding in the minds of many people. They might believe they're so preoccupied with the administration of police departments that it's very difficult for them

to view the rights of the individual citizen in an even-handed way.

I understand that concern. And certainly we intend to bring legislation in; I expect legislation will be introduced in the course of these estimates. But I want to make it clear that the police commissions across this province do have a continuing responsibility to act in matters of civilian complaints. The role of the Ontario Police Commission to review citizen's complaints from people who are not satisfied with the local treatment must, in my view, continue whatever legislation is brought in.

In so far as Mr. Maloney's report is concerned, it's a very useful document. Mr. Justice Morand, in one paragraph, endorsed the general principles of the Maloney report. We've heard that His Honour Judge Morand did a report in relation to the federal police force.

The experience in other jurisdictions in relation to civilian review boards, certainly on this continent, has by and large been a very unhappy one. We have been concerned about the type of review that is introduced through legislation in order to improve the situation rather than make it worse. This has occurred in other jurisdictions where it's just invited polarization and police-citizen confrontation.

Of course, the experience has been a changing one. We've learned a great deal in the last several years. I may be mistaken but my recollection of Bill 114 was that it was not well received by the New Democratic Party caucus when it was introduced. I don't think the New Democratic Party caucus had been prepared to accept that bill. Certainly there was a great deal of controversy in relation to that legislation.

I recognized before the highly volatile events of the summer, particularly the Albert Johnson shooting, that we were going to have to improve the system. While I was in Great Britain at a law conference at Cambridge University I took the time to spend several days in London reviewing citizen complaint procedures with the Home Office and with Scotland Yard to get the police side of it. This was because Great Britain, after a lot of debate, just passed legislation two years old on the civilian review process. I think we've learned a great deal from their experience.

At the end of the spring I retained, on a full-time basis, the services of Mr. Sidney Linden, QC, who was then the vice-president of the Criminal Lawyers' Association, and well regarded for his civil rights activities and concerns for the individual. He was to assist us in developing better procedures with respect to the review of police complaints.

The events of the summer have undoubtedly expedited the process and we will have legislation—I expect it to be introduced within the next week or 10 days, and I hope it will meet with support of the opposition caucuses. It's legislation that in my view should be treated as a pilot project for the municipality of Metropolitan Toronto because of the very special problems that exist here. That's not to say it won't be expanded throughout the province at some later date, but at least we think we should have an opportunity to see how this project develops. I think we'll have an opportunity before the estimates are concluded to discuss some aspects of this bill, quite apart from any discussion that will take place in the House .

Mr. Kerrio very helpfully indicated a number of policy issues that he wanted to discuss during the course of the estimates. I think that's very helpful to have that outlined for us because it enables us to have additional material available that might not have been available if we had not known of your specific interests in this regard.

I just want to touch on several of these issues, because many of them were touched on by both opposition critics. Those are the reform of police commissions, and the recommendation of the Robarts commission that all the members of the police commissions be appointed by the local municipal councils. Also, as I understood the comments of justice critics, they favoured the cessation of provincial appointments.

I want again to make it very clear that notwithstanding my very high personal regard for the former Premier of this province, I simply don't agree with that recommendation. I still believe there should be some balance between provincial and municipal appointments because of the very special nature of police work.

I personally believe the provincial government does have a responsibility. I don't think there would be any quarrel about that in this room that it has an overall responsibility for the quality of policing in this province, whether it relates to our own provincial police force or local police forces administered by local police commissions.

I believe the overall responsibility of the province for the quality of policing was recognized, for example, by the legislation which created the Ontario Police Commission whose mandate it is to improve the quality of policing in the province. This responsibility, in my view, does require us to have some involvement in the appointments to local police commissions. I just want to make it clear that my views have not changed in that respect.

While the composition of the police commissions should, where possible, reflect to some extent the cultural and racial diversity of a community—and certainly that a desirable principle—obviously in Metropolitan Toronto where you have a very extensive racial and cultural diversity it presents some very intriguing problems, unless you're prepared to make the police commission a very sizeable body in order to have that broad representation.

Mr. Kerrio referred to Cardinal Carter's report and the importance of community links. I see this as a very important recommendation in the context of police commissions I do see the tension that sometimes is created by the diversity of our community vis-à-vis a police department can only be alleviated by these community links. Regardless of the composition of a police commission, it is absolutely essential that we encourage these links at the community level between various groups that make up our community and the local police department and the various branches or divisions of that department.

That's why I view the experiment related to community liaison with law enforcement bodies as a very essential initiative in this respect. I'm well aware of the criticisms of Professor Gandy about some of the structural problems related to these community liaison groups—the pilot projects. But as Attorney General I was involved in these pilot projects from the beginning. We've always had representation on these community liaison groups. The Solicitor General provincially was involved in the initial funding, and both the Solicitor General and the Attorney General's ministries are involved in the funding of these community projects.

While we recognize they have growing pains and there have to be certain adjustments, I want to say that both as Solicitor General and as Attorney General we are very committed to these community projects. In our view they represent a very important wave of the future in so far as creating better understanding between our police department is concerned. This is particularly so in Metropolitan Toronto and the various groups that make up the community.

Mr. Kerrio also spoke at some length regarding the community's concerns about vandalism and what the Solicitor General's ministry is doing about it. There's no question the growing incidence of vandalism is a matter that concerns all communities. As Attorney General I have received copies of resolutions from most of the municipalities in Ontario expressing concern with the growing incidence of vandalism.

While we are well aware of the many social causes that have produced this increase, there are obviously certain initiatives that can be taken by government to try to deal with this problem short of reforming society as a whole. Of course, many of these problems relate to some of the malaises that are a part of modern urbanized society.

[5:30]

The community service order program is but one initiative that has been taken by the government to encourage people to work in the community as part of the penalty when they are convicted on an offence that is vandalism-related. We hope that certain amendments to the Petty Trespass Act which will be introduced before the session ends will provide a little better protection for the schools of this province. We have heard a great deal from the principals and the local school boards.

I think the understanding of what the basic framework of law is all about, and the need for individual rspect for the law, is part of the solution, and that is why we were very active in the institution of Law Week in Hamilton this week, which we hope will be a forerunner of Law Days or, it is hoped, Law Weeks throughout the province.

Mr. Ziemba: The law is one thing, but justice is something else.

Hon. Mr. McMurtry: We hope the participation of the legal profession, the police and the judiciary going into the schools of this province will help create a better respect for the law and the role the law plays in maintaining a just society, maintaining the rights of the individual and protecting the weak against the strong, and generally providing for an orderly society in which all individuals have an opportunity to develop their own potential. I will have another announcement to make with respect to specific initiatives in the area of vandalism prior to the conclusion of these estimates.

Both of the Solicitor General critics spoke of the need to enhance or upgrade police recruitment and training, particularly as it relates to challenges with respect to the changing face of Ontario with respect to racial and cultural diversity, which I think our province is very privileged to represent in this country and in the world community.

Most of you will have noticed the appointment of Dr. Reva Gerstein to head up a task force related to police recruitment, training and career development, particularly as it relates to the cultural visible minorities. The task force consists of herself, Chief Torrance from Hamilton and Professor Bowen—an im-

migrant some 22 years ago from Trinidad—of the University of Guelph. We expect their recommendations will be of great assistance. This task force has undertaken to make a preliminary report in March, and it is hoped a final report in June.

Other items mentioned by Mr. Kerrio included budget allocations to police forces, and too much emphasis on minor property crimes and not sufficient emphasis on the more major criminal activity. We can talk about that during the course of the estimates. One of the great problems that faces society today is the very low clearance rate of property crimes. For breaking and entering, burglary and what not, the clearance rate across the country is only about 15 per cent. We will discuss this at greater length and we will discuss issues related to the Buddy Evans inquest. I think it would be better to do that under the appropriate vote.

Mr. Kerrio said he is not inclined to agree with my reluctance to proceed with an inquest in the Albert Johnson case. I think you understand that the laying of criminal charges has precluded any inquest at this particular time.

Mr. Renwick: That is not correct and you know it's not. It's a total misreading of the act. We'll deal with that in due course.

Hon. Mr. McMurtry: Yes, we'll deal with some of the earlier statements you made, which I am quite surprised—

Mr. Renwick: You make these inaccurate statements time and time again, ex cathedra, when you don't have any basis for making them. Let us leave those controversial questions until we can get into the give and take of the discussion of your estimates, to decide whether we will vote the money that you want, and that will depend a great deal on your performance in these estimates.

Hon. Mr. McMurtry: I hope your performance in relation to this particular very crucial issue will be a little more responsible than some of your earlier correspondence.

Mr. Renwick: My performance is not in question. Your performance is in question.

Hon. Mr. McMurtry: As a member of this Legislature, the role that you play in these estimates is in question. To suggest that you have no responsibility, is, as I say, a suggestion I have difficulty—

Mr. Renwick: Your performance is in question, not mine.

Mr. Chairman: Mr. Minister, carry on please.

Hon. Mr. McMurtry: Mr. Kerrio raised problems in relation to rail traffic, and apparently some of the questions were raised last March. Perhaps you brought these concerns to the attention of the Minister of Transportation and Communications (Mr. Snow). There is no question that the events in Mississauga have given much greater importance to the whole issue, and I can understand why you might very well regard yourself as somewhat prophetic in the statements you made last March.

As you know, there are constitutional issues involved with respect to the responsibility for rail traffic. I just want to indicate that I spoke to the federal Minister of Transport as recently as last night, and he once again assured me the inquiry that will be conducted will be a very wide-ranging inquiry, and hopefully all of your concerns will be part of the terms of reference of that particular inquiry.

Mr. Kerrio: He has some interim regulations that he is talking about, does he not?

Hon. Mr. McMurtry: Yes. He told me he had asked—persuaded, I think, to use his words—the Canadian Transport Commission to pass interim regulations, particularly as these regulations relate to the transportation of dangerous explosive substances such as propane, together with such hazardous and dangerous substances as chlorine. We expect there will be some interim regulations in that respect coming down from the Canadian Transport Commission in the very near future.

Because of my own obvious interest in this matter, I want to indicate to you, Mr. Kerrio, that as soon as we have the precise terms of reference we will make sure you have an opportunity, with the other members of the Legislature, to see them. As we will undoubtedly as a government be represented at this inquiry, we will certainly see you have the opportunity of discussing your concerns with counsel, so that any of these issues that are of such great importance will be developed during the course of this federal inquiry.

Mr. Chairman: You might also, as Solicitor General, see that some of the gypsies are taken off the roads, since the minister doesn't seem to understand the issue at all. Sorry for the interjection. It was completely out of order.

Hon. Mr. McMurtry: Mr. Lupusella has suggested that my statement with respect to the criticism of the comments that have been made about police involvement in the strike situation was a clear slap in the face to the trade union movement and workers, as I recorded your words.

I just want to make the general observation that in my view the trade union movement is amongst the greatest supporters of the police in our society today. The police in this province would not enjoy the general public esteem they do if it were not for widespread support within the trade union movement itself. My only comment at this point is that some of the comments that were attributed to some of the leaders in the trade union movement are not shared by the majority of the rank and file.

You spoke, quite properly, about the importance of respect for the law of the land. I think at least in that area we have some fundamental agreement. My submission is simply that it is the necessity to maintain that respect for the law of the land that requires police intervention at the appropriate time. I'm sure we'll have more to say about that later on.

The only other matter I wanted to deal with—as many of the other issues that you raised will be dealt with during the specific votes—is your concern related to the battle against racism in the community. Your concerns are expressed in a very effective and articulate fashion, and I certainly wouldn't quarrel with anything you had to say about the importance of the battle against racism by police forces, individual police officers, by the Ministry of the Solicitor General, and indeed by every community.

My only disappointment about your comments regarding racism was your general reluctance to recognize the fact that we in the government—the ministries of the Attorney General and Solicitor General in particular—have given this issue a very high priority, certainly since I was sworn in as the Attorney General over four years ago.

Prior to being elected to this Legislature, I had engaged for several years in a public debate with the Bell telephone company regarding their reluctance to take any initiatives to eliminate hate messages on their Bell telephone system. I can show you correspondence going back to 1972 or 1973 with respect to my concerns as an individual. I was gratified that those concerns were eventually translated into legislation when the former federal Attorney General, Mr. Basford, amended the first federal human rights code in order to provide a mechanism to eliminate those messages. In so doing he acknowledged publicly that it was at my request.

Mr. Chairman: I'm sorry to interrupt the minister but there is a vote in the House. Before adjourning to allow members to take that vote, I would ask the permission of the committee to request the government House leader to move a motion allowing this committee to sit next Wednesday afternoon so that we can get additional time in to cover these estimates.

The committee adjourned at 5:45 p.m.

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No. J-25

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Solicitor General

Third Session, 31st Parliament
Friday, November 30, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 11:25 a.m. in committee room 1.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL
(continued)

On vote 1701, ministry administration program; item 1, main office:

Mr. Chairman: I recognize a quorum. We have 12 hours and 45 minutes left in this committee. I remind members that a motion was passed in the House today at the request of this committee to allow us to sit next Wednesday afternoon, in addition to our regular sitting time.

When we adjourned, the minister was in the middle of his response to the opposition critics. Mr. Minister.

Hon. Mr. McMurtry: Yes, there are several other comments I wanted to make, Mr. Chairman, in response to Mr. Lupusella's concern, which we all share, in relation to the fight against racism. I concluded yesterday by speaking of my own efforts prior to election to the Legislature with respect to hate messages on the Bell telephone system. I mentioned we were able to persuade the federal government to amend the human rights legislation to provide for a mechanism to prohibit this type of transmission by telephone.

[11:30]

Much of this was a result of the general activities and efforts of an organization known as the Western Guard. The police in this community are fairly vigorous with respect to the prosecution of the Western Guard, whose activities largely involve racist actions of one kind or another. The result was that the head of the Western Guard, Mr. Andrews, received a fairly significant jail sentence. I can't recall specifically how much that was.

I do recall that our activities in this respect attracted the attention of the Ku Klux Klan in the United States. Some character by the name of David Duke, the so-called grand wizard of the Ku Klux Klan, arrived shortly thereafter in Toronto with some of his goons. They attended at my office and made various threats because of my activities which, to quote the Ku Klux Klan, "were threatening the white race." I have had correspondence from the Klan that I would be happy to share with you if you are interested.

As Attorney General, I instructed all crown attorneys very early in my tenure to press for particularly stiff sentences if, for example, there was evidence that any assaults were motivated by racism. You may recall one particularly tragic case where a Tanzanian immigrant was pushed off the subway platform in Toronto. The trial judge, who was a very good trial judge, unfortunately took it upon himself to state, in imposing a reformatory sentence, that the colour of the victim's skin was not going to be taken into consideration.

I personally launched an appeal which indicated we were going to seek a stiffer sentence. We felt there was evidence it was an attack that had been motivated by racism and it had to be treated particularly seriously. The judgement of the Court of Appeal was to extend the sentence from a reformatory sentence to a prison sentence. Mr. Justice Dubin, in giving the judgement, in effect agreed with what we said in our notice of appeal: that any racist attack was an attack on the fabric of the community and must be regarded as a particularly heinous crime. I think the Court of Appeal decision, which must be followed by other trial judges, is one indication of the concern of the administration of justice in relation to the fight against racism.

We have talked of our initiatives in relation to assuring minority groups, particularly the visible minorities, that the police in this community and the Ontario community generally are sufficiently sensitive in relation to their concerns.

Mr. Lupusella mentioned the Ubale report. The background of the Ubale report was that a number of south Asian organizations had approached me several years ago concerned about the extent to which the south Asian citizens were victims of various racial activities. They were concerned that perhaps they weren't receiving sufficient protection. As a result of their concerns I arranged several meetings with senior police officers and encouraged the 30-odd organizations that were involved to provide me with a report, which was done through Dr. Ubale.

Dr. Ubale's report was actually directed to me, specifically at my request. You are

aware of Dr. Ubale's subsequent appointment to the Ontario Human Rights Commission; he now is the first chairman of the race relations division of that commission.

I just want to assure members that our concerns with the fight against racism will always be the highest of priorities so far as I am concerned, whether I am Attorney General, Solicitor General or simply a member of the community. It has been an issue that concerned me long before my entry into political life and it will concern me long after I leave political life.

Yesterday I had with me several speeches I gave within a few months of becoming Attorney General in relation to what I felt was a growing problem in the community. I'm not suggesting other members had not spoken out on this problem, but I recall making a number of speeches in this area back in early 1976 and ever since that time. I just want to reiterate that this issue is of grave concern to me and must be of grave concern to the community as a whole.

As I also said on many occasions, while Legislatures have a specific responsibility there is no Legislature in the world capable of codifying ultimate human principles. If the battle is to be won it really must be carried on by the responsible individual citizen. If the problem is going to be solved, it's going to be solved at the community level. That's not to say the government doesn't have responsibility to provide leadership. Of course we do. But if it is going to be solved it's going to be solved at the community level and this is why many of our initiatives have been community-oriented.

There were other matters touched upon during the course of the statements by the critics of the Solicitor General, but some of these we will deal with under specific headings. I think this is all I intended to say at this time in response to the opening statements.

Mr. Kerrio: I would like to make a comment as it relates to vote 1701.

Mr. Minister, you might share with me the concern I have over the nature of the information that has been supplied to us for the purpose of these estimates. All of the comparative tables provided give the actual cost for each item for 1977-78, the estimates for 1978-79, the estimates for 1979-80, and the difference between the 1978-79 and the 1979-80 estimates. Yet in another part of the material we have been given the actual costs for 1978-79.

Why were the escalations or cutbacks made by comparing the actual cost in one area and the estimates, rather than the actual cost which we subsequently had? That is a question I would like to get clarified before we go too much further.

As to the figures themselves, I would like to draw the minister's attention to the variance between the estimates and costs for the 1978-79 figures for the total budget—in particular the shift of funds from OPP management—and support services to operations. It seems around $4.5 million. Maybe you would like to comment on that aspect.

The other matter I would like to raise relating to this vote concerns administration. I wonder if the minister could explain the increase slated for the administrative involvement, about a 28 per cent increase over the amount spent in 1978-79, especially when the estimates predicted something like a five per cent increase? The increase was in the 35 to 38 per cent area.

Mr. Hilton: Mr. Kerrio, could you assist us in directing us to the pages in the book to which you refer?

Mr. Kerrio: I'm sorry, they aren't numbered. Let's go to the first page, where we talk about the summary of comparative estimates by program. That's just behind that first yellow page.

We have actual costs, 1977-78 and estimates 1978-79. The thing I'm trying to highlight is, while we are making those comparisons between the actual costs of 1977-78 and estimates of 1978-79, in another area we have the actual costs of 1978-79. Is there a reason for preparing it that way? You might explain that.

Mr. Hilton: Mr. Lorne Edwards, the director of finance, would be pleased to respond to that.

Mr. Edwards: Mr. Chairman, I believe the member is looking in the briefing book that he was given. These books were initially prepared last April—

Mr. Kerrio: Before you had the actual costs?

Mr. Edwards: —presuming we would be going on much earlier than we did. I didn't change the books and I think you have brought up a very valid point; presumably I should have done that. However, when the public accounts were tabled a month or two ago. I felt that information was available and I didn't bother to change them. I don't see any reason why we shouldn't do that in the future.

Mr. Kerrio: Yes, you can appreciate that if the information is available it makes it a little easier. We can really discard some of the figures from our minds and just talk

about actual expenditures as they relate to the differences. That's the main question I wanted to raise there.

Mr. Edwards: One of the reasons is that if the public accounts have not been tabled then we are required to table our expenses two weeks before we go on estimates.

Mr. Chairman: Thank you. No further questions?

Fine. Mr. Lupusella and then Mr. Renwick. That will teach you to pay more attention, Mr. Renwick.

Mr. Renwick: Whenever you want to recognize me, I will be glad to speak.

Mr. Chairman: I just sent Mr. Renwick a note that I changed him from 27th on the list to second.

Mr. Lupusella: There's a point I would like to raise with the Solicitor General under ministry administration. We are talking of an increase in estimates for 1979-80. This vote is for $3,395,620. I realize where the money is going, but I would like to raise a point. How many people do you employ in your ministry to reply to our correspondence?

Hon. Mr. McMurtry: I will ask the deputy minister for assistance in a moment, but it depends on the nature of the inquiry. For example, if it involves an OPP matter, somebody concerned about an OPP investigation or the manner in which they were treated by an OPP officer, the inquiry is passed on immediately to the OPP. Those with knowledge of what went on will prepare at least a draft reply, which will come back to us, setting out just what occurred.

That reply may be refined or altered in some way simply to make it a better communication, or it may not. That, as I understand it, is the way it is handled in relation to the various branches of the ministry about which people may be making inquiries or about which people may have complaints or suggestions.

As to the actual people who are involved at head office, as it were, with respect to this correspondence, again we're dealing with a number of people who may deal part of the time with correspondence. Are you simply interested in people who are working at it full time?

[11:45]

Mr. Lupusella: The reason I'm raising this point is, with due respect, whenever I am corresponding with the minister's office, the answer takes up to two and a half months. Sometimes there are urgent matters with which I would like to deal. I need the minister's assistance and these delays are causing problems in dealing with my constituents.

Hon. Mr. McMurtry: What I would like you to do, Mr. Lupusella, is identify for me during the estimates—or outside, depending on what is most convenient for you—the specific matters where you felt the reply was unduly tardy. It would help in some of these matters. It might require some degree of investigation to find the officer who may have been involved in the particular incident, and it may require some period of time to get this information. It would be helpful if you were to table with me copies of letters that you have written where you feel that the replies were not received quickly enough—

Mr. Ziemba: I have some cases as well.

Hon. Mr. McMurtry: —or anybody else—we may be able to oblige you in that respect.

Mr. Hilton: If I may add to what the minister said, Mr. Lupusella, generally speaking what happens is the minister's correspondence comes up to our office. We determine the branch—the OPP, the fire marshal, the forensic lab, or whoever it is—that is involved in the inquiry and we direct the mail there. We ask them to consider the questions raised and submit a possible answer. It is sent back to me, I review what they say and have a letter drafted and sent to the minister for his consideration.

If at any time, and I say this quite sincerely, you have any problem or something that requires expedition, please always call me and we will do our level best to get it for you just as quickly as we possibly can.

The minister has already said it may be a question of some research, or it may be a question of finding the person who is involved if it concerns an investigation by an officer or something like that. If it involves the Metropolitan Toronto police it often has to go to the OPC and through the OPC to the individual police force, so it is another step in a chain, and the chain goes down and the chain comes up. In matters of urgency the chains can always be shortened, and we would be pleased to assist you in shortening them wherever you feel it is necessary.

So far as the minister's staff in our ministry is concerned, he has one secretary and one administrative assistant who is not fully occupied because of the fact the minister is not there all the time. The assistant has now assumed a very crucial role in relation to the co-ordination of motor accident problems, and he is more than busy doing that aspect of specialized work. Other than that, the minister has no staff within the Ministry of the Solicitor General.

Mr. Chairman: Excuse me, for the information of the committee members, the bell that is ringing is not for a vote, it is simply for a quorum, so you can decide accordingly. I would like to continue with the estimates, unless we are instructed otherwise.

Mr. Kerrio: Those Tories looked in short supply today. They must be speaking all over Ontario.

Mr. Lupusella: Mr. Chairman, I would like to thank the Solicitor General and deputy minister. I realize the complexity of this situation, especially when investigations are taking place, but this should be revised in order that communication is going to be improved between one structure and the other and result in a faster outcome.

I can understand the delay when there is an investigation going on, but I am talking about particular cases in which the minister has to intervene and in which I noted there is a delay involved. I hope he is going to take a look at the operation of his office to improve such situations.

Hon. Mr. McMurtry: I want to emphasize the importance of what Mr. Hilton had to say, because if we had additional staff we could perhaps do more frequent follow-ups as to why we haven't received a reply from a particular branch within a certain period of time. We do a certain amount of that, but Mr. Hilton said if any of you are concerned about tardiness of reply, or feel that the matter is of urgency, he will be available on the other end of the line. I think a call to him will certainly help expedite the process.

Mr. Lupusella: I usually refer my correspondence to the minister, and I hope this matter is going to be cleared up within this ministry.

The other question I would like to raise is the particular matter of supervision of the police forces. There is an increase for the fiscal year 1979-80 of half a million dollars. Can the Solicitor General state how the money is spent, what kind of supervision is involved and what kind of structure you have to supervise the police forces?

Hon. Mr. McMurtry: This must be under the Ontario Police Commission vote, I assume.

Mr. Lupusella: It's the first page of the briefing material which you sent to us; summary of comparative estimates by program.

Hon. Mr. McMurtry: I'm sorry we don't seem to have a copy of what was sent you. Do you want to deal with this now or under the OPC vote?

Mr. Lupusella: I'd like a general idea of the guidelines which are applied. What kind of supervision of the police forces is provided to justify such an increase? I note that more than $7 million has been spent on that area and I would like to have an answer as to what kind of structures are in place for supervision of police forces.

Mr. Chairman: Before you start, Mr. Minister, may the chair make a suggestion to the committee? I'm not just directing it towards Mr. Lupusella. We get a much more meaningful dialogue and more information if we bring up specific matters under the appropriate vote and limit ourselves on the first vote to the general policy questions.

I understand the minister is prepared to answer that particular question, but I think any other questions of a very specific nature would be better handled under the appropriate vote.

Mr. Lupusella: Can I at least get the general principle of the structures? I'm not dealing with the actual spending of the money. I'm particularly concerned in general terms about the existing structures for supervision of police forces. Can you explain the concept of such supervision and what kind of structures are implemented in order for the supervision to take place?

Hon. Mr. McMurtry: The assistance so far as police forces are concerned—and I don't know that I'd use the word supervision as such—is done through the Ontario Police Commission. There are a number of branches of that commission. Under the Police Act they have the mandate to approve the quality of policing in the province of Ontario.

As you know, apart from the OPP, the provincial police force which reports directly to the Ministry of the Solicitor General. Other police forces are administered by local police commissions, as you know. The role of the Solicitor General is carried on through the Ontario Police Commission to assist the police forces in a number of ways. For example, starting with the advisory services branch, a number of activities are engaged in by advisers who are employed by the Ontario Police Commission. These advisers are for the most part experienced individuals who have had a great deal of experience as police officers.

A number of police forces ask us to do a survey of their performance. It's generally regarded as an adequacy survey. I'm just looking at the last published annual report of the Ministry of the Solicitor General, the report of 1978. It shows, for example, the number of police forces that had asked for an adequacy survey, which is really a general survey of the effectiveness of their operations.

Quite apart from the formal adequacy survey, the resource people, the advisers within the police commission, receive telephone calls from police forces across the province on a daily basis dealing with particular problems they have. It may be a budgetary problem, a resource problem, an allocation of personnel problem, problems related to the keeping of records, problems relating to a communication network. All of these are matters which engage the day-to-day activity of the Ontario Police Commission.

Occasionally there are hearings. There may be public hearings under section 56 of the Police Act with respect to activities of a particular force. For example on the Kitchener-Waterloo force there were many days of public hearings with respect to some of the activities of that force. There were a number of allegations of brutal conduct against individual police officers. The Ontario Police Commission had a public hearing that went for something like 29 days.

The personnel development branch is involved in training programs for senior personnel. A lot of this involves the Ontario Police College, and there are various other training programs. We have an intelligence services branch that has the responsibility for keeping records on the activities of organized crime in the province. The functions of this branch include for example the provision and maintenance of an exclusive intelligence radio network and surveillance equipment for forces within this network.

They include: "Training police officers and selected civilian personnel in police forces in matters related to organized crime and its investigation," and "supporting and maintaining close liaison with the provincial bureau of criminal intelligence services." That generally outlines the activities of the intelligence services branch of the police commission.

We have a fairly extensive technical services branch, because of the importance of modern-day technology to effective police work. In order to promote the efficient use of computer communications and records technology, this branch supplies on a continuing basis technical and consulting services on request to any particular police forces.

[12:00]

For example, a new computerized information service was developed recently in Ottawa, a very major computerized information bank. It would allow, for example, a police officer responding to a particular call to be given information within a matter of seconds as to what to expect at a particular address. Or if the call related to a particular individual it would tell the officer what to expect in so far as the individual is concerned. Many police officers face considerable risks in responding to what might appear to be a routine call.

This computerized communications system was developed to a very large extent through the advice and technical assistance of the OPC. There again is a type of service provided by the ministry through the police commission.

Mr. Lupusella: Given such an explanation, am I correct in stating that internal investigation of regional police forces comes under this principle as well?

Hon. Mr. McMurtry: If there was an investigation under section 56 of the Police Act—there was a hearing into the activities of the Kitchener-Waterloo regional police, for example—I'm not sure so far as investigation is concerned. It depends on what the nature of the problem is.

Mr. Lupusella: I'm not talking about an individual problem, but a general investigation.

Hon. Mr. McMurtry: We don't investigate on a day-to-day basis. Normally police forces will ask for an adequacy survey, which I referred to earlier, to review their general operations to determine whether or not they're providing adequate policing for the area served by that department. That would be a form of investigation.

If there was an allegation of criminal conduct on the part of a member of a regional or a municipal police force, this investigation wouldn't be carried on by the OPC. It might be carried on by the OPP or an internal unit within the particular police department. For example, the internal branch of the Metropolitan Toronto Police, the largest regional police force, carries on investigations into allegations of criminal conduct on the part of officers on that force.

Tragically, every year there are some officers of this police department charged and convicted of criminal offences. The number charged and convicted represents a minute, infinitesimal fraction of the overall force, but unfortunately there are a few, a handful of officers, every year who are charged and convicted for corrupt practices. The view of the average police officer in Metropolitan Toronto is that this internal unit is a very tough force which regards—quite properly—any police corruption as a particularly serious type of crime. Their investigations are very thorough and the prosecutions are carried out in a very vigorous fashion.

While it's a distasteful role for police to have to play, it's a very necessary role. One

can point to a certain number of prosecutions every year that do lead to convictions.

Mr. Lupusella: Do you get reports on an annual basis about the efficiency of each police force?

Hon. Mr. McMurtry: I don't see reports on an ongoing basis personally. These regional police forces are governed by local police commissions which have the day-to-day responsibility of providing adequate policing for that region—or municipality, if it's a municipal police force.

We don't monitor their activities, to my knowledge at least, on an ongoing basis unless we have some specific complaint or if something comes to our attention that would indicate we have to look into a particular matter. Under our legislation the responsibility for effective policing is delegated by the province to the local police commission, just as the province delegates the responsibility to local government for the adequacy of the services provided by the various branches of municipal government.

Mr. Lupusella: With great respect, don't you think the Solicitor General, being the law enforcement officer in charge of policing across the province, should get an annual report from each police force to find out the efficiency of policing?

The reason I'm raising this issue is because we keep hearing through the newspapers about this continual internal investigation going on in each regional police force. This is part of the monitoring of the efficiency of the force. My particular concern is that the Solicitor General should monitor the situation to see if once in a while an inquiry might be necessary to determine the efficiency of policing in the province.

I was quite impressed in 1972 when an inquiry on the efficiency of the police forces across the province was called by the Solicitor General. I think this report, which was tabled in 1974, was a good one. At least it gave an opportunity to the public and the Solicitor General and the members of this Legislature to find out if such efficiency really existed and what kind of legislation was supposed to be enacted in order for improvements to take place.

In financial terms, I guess it will be a positive step. Instead of us spending so much money on this internal investigation, especially when there is a concrete problem affecting the efficiency of each regional police force, maybe the Solicitor General can take other steps and remedies to solve the situation. I hope he's going to move in that direction instead of leaving everything to the discretion of the Ontario Police Commission to look after.

Hon. Mr. McMurtry: No, the OPC is part of the Ministry of the Solicitor General and is responsible to the Solicitor General.

Mr. Lupusella: Why are you not informed by them?

Hon. Mr. McMurtry: We are informed. We talk about these adequacy surveys that are done, some at the request of the local police departments. The police commission does a certain number every year on its own initiative. Many of these reports do reach my desk. The Deputy Solicitor General and others have a certain responsibility to determine what is relevant so far as my responsibilities are concerned. It's obvious that I don't read every report, nor would any minister read every single internal report of his ministry. If one had a thousand hours a day I suppose it would be possible to do it.

I think the system works quite well. Where there are problems of any significance, through the police commission or through the legislative process—I'm talking about local members of the Legislature—or through others, the Solicitor General invariably hears personally of any problem areas.

The suggestion that the ministry does not keep in touch with what's going on with local and regional police forces is just not accurate.

Mr. Lupusella: In relation to policy development and systems co-ordination, which is part of your ministry, the main task is to order the policy proposals so that they are considered with the long-term view in mind. Can you give us a general statement about those policy proposals which have been enacted by this policy development systems co-ordinator in your ministry?

Hon. Mr. McMurtry: Over what period of time? For example, yesterday we were looking at demographic studies in relation to the aging of the population. We look at the percentage of criminal activity that occurs in certain age groups. We know that during the next 20 years there are going to be some fairly significant changes in the age demography of Ontario—indeed, I suppose, throughout Canada. Long-term studies are in process to determine what the response will be.

There are continuous studies going on with respect to the amount of criminal activity. It is increasing from year to year in Ontario and the rest of the western world, unfortunately. For example, police budgets have increased dramatically in Ontario since 1970. They've gone up at a great rate. Yet, I'm told the number of police officers per capita is

larger in many parts of the western world than it is in Canada and the United States. There's continuous review of the challenges and the problems facing policing.

We have to be concerned about the increase in the number of vehicles on our highways, and the additional miles that are driven by all vehicles on our highways.

Mr. Kerrio: I think Joe is going to cut that down when we get $2 gas.

Hon. Mr. McMurtry: These are all matters that must be constantly reviewed in order to provide the people of this province with adequate policing services.

Mr. Lupusella: Considering this branch also suggests changes of legislation whenever required, and considering also that sometimes legislation is required to solve these demographic changes which have taken place in the province, do you have any suggestions as to what kind of legislation is needed as a result of recommendations which had been developed by the policy development systems co-ordinator in your ministry?

[12:15]

Hon. Mr. McMurtry: I think we have—the deputy minister will correct me if I'm wrong—about two people in that area. Personally, I think it would be helpful if we had more than two advising on the legislative initiatives required from time to time. For example, I am personally a little unhappy the legislative timetable has not permitted us to proceed with our private investigators and security guards legislation. It is important legislation that has been developed within the policy development branch of the ministry.

There is legislation now in place that must be monitored on an ongoing basis—for example, the Sunday observance legislation. A number of groups are very concerned about the effects of that legislation. People I've spoken to in the organized labour movement are very supportive of the legislation because of the protection it affords employees. Large chain stores and so forth are concerned about the proper policing of that legislation.

On the other hand, as recently as yesterday the chairman brought to my attention the problem of the Italian community in Toronto with respect to photography studios. They stress the necessity of them functioning on Sundays because of the important social events that occur on that day.

Those are two examples of the many problems that have been brought to our attention with respect to that legislation. A number of these problems are being addressed and hopefully will be reflected in legislation introduced in the spring. Quite apart from new legislation, it's absolutely essential to monitor the effects of existing legislation to see that the public interest is well served by that legislation in its present form.

Mr. Hilton: The minister mentioned the demographic study in the discussion yesterday. I have a copy of that here. I'll go through the table of contents to give you some idea of what it is these two people have been involved in. It indicates that in relation to law enforcement—and we're looking ahead, we hope, through the 1980s—there will be the economic implications, the sociological issues, all those matters that you were speaking about yesterday in relation to ethnic changes and the like.

They would look at the impact of the boat people coming in, for instance, and what may be the trend in the future and what we should look forward to in that regard. They would look at criminal activities, operational and technical implications, and organization and management—how it will change within the coming 10 years.

In the area of public safety, they will review the fire marshal, the coroner, the forensic science and the pathology department—in relation to the changes in techniques, the changes in demands and the changes they will be facing as a result of population and economic changes. The document has been supported by innumerable graphs that have been developed in that office.

They study crime and project the development of crime—how it is to be affected by the changing age groups. I think you are all well aware of the changing number of people of certain age groups in our schools and how classrooms are becoming redundant in certain areas and not in others. This is having an impact upon policing as well. We know from experience that certain age groups tend to have a higher criminal activity than others. This branch considers—as the content of that age group enlarges or diminishes—what should be expected, so that we are not building something that will be a white elephant in years to come. We are endeavouring through these two people to keep our thinking ahead in relation to the problems we will be facing—not next year, but 10 years down the road.

We would consider ourselves less than prudent civil servants if we weren't prepared to advise our minister, looking at a very smoky crystal ball, I must admit. This is not an exact science, but we have to think ahead.

That is a large part of the consumption of time of those two people involved. In addition, one of them will now be working with one of the groups the minister mentioned yesterday that has been set up with Dr. Gerstein. That will deprive us of one of our two. But rather than go to the additional expense of hiring new people one of them will be seconded to assist that inquiry for the next six months. It's all part and parcel of the same thing—that is, the ethnic problem in the future—and that is what they do.

Mr. Lupusella: This is the prime reason I'm raising this matter. I guess they have the important task of advising the Solicitor General and the ministry about policy formulation in enacting legislation to meet the problems which might arise in our society. It is an important task, and I don't think two people—even though you are going to give them an extra assistant for a certain period of time—are sufficient.

My analysis is based on the fact that such a department should be revitalized. It's the central core of your ministry. I can detect why certain loopholes exist in our society and why legislation is not enacted to deal with these problems. I would give more importance to the policy development systems co-ordinator. I think this department should be revitalized and co-ordinated in such a way that expertise will be provided in each field—someone looking at legislation needed to deal with these problems.

Maybe that's why your department is lacking in some ways. We are viewing the problems and detecting the problems, but I guess there is some inefficiency in this department. It is a vital one for your ministry. If you don't give enough importance to it, priorities are going to be shifted. Priority should be given to a number of groups working in this department dealing with problems that might arise in our society.

You know the problems. You have all the reports. You have the views of the citizens and the groups who are interested in certain problems. What you need is a fuller version of these reports and recommendations and the introduction of legislation in the House.

Mr. Hilton: Mr. Lupusella, if I may, I'd like to take some exception to your remarks as to the inefficiency of the ministry. I have not been with the ministry long, and I entered into it with a rather critical eye. Perhaps it's some lack in me, but I have not been able to discern the inefficiency of which you speak.

Responding to what you have said, these two people are co-ordinators and collectors. There is a branch in the OPP that is entirely devoted to an ongoing study of its needs. There is the same sort of group in the OPC, in relation to advice to other ministries. There is in all our branches. The fire marshal's office is constantly considering and studying the needs and the advancements in other jurisdictions so that they may be brought to this jurisdiction. We are proud, sir, that we are in the forefront, in fire and in police, by both statistics and recognition of our peers, in this country and indeed on the continent. The efforts of these two people are the drawing together and the collecting from those who advise them in each branch of the material for presentation to myself.

Mr. Lupusella: I don't want to dispute the reputation of certain operating people who are in charge of a certain structure within the police force. The question is that you have the resources in your ministry. You have the Solicitor General in charge of policing in Ontario. And there are people working outside the ministry, looking at these loopholes which exist and which you have not foreseen.

If you read my opening statement in the previous estimates, I was talking about the use of guns in the province. We were supposed to be faced with particular problems before the Solicitor General appointed someone to establish guidelines on the use of firearms. Those are the types of problems which I am talking about. I think your ministry should be in charge and the leader in shaping policy on these problems the police force is faced with. If you give low credibility to the reports and the suggestions coming from people in charge of particular structures, why are we faced with these problems? Why has the Solicitor General been forced to appoint someone to establish guidelines—

Hon. Mr. McMurtry: That is not so. The guidelines have existed for many years. There are a number of guidelines the police have with respect to their activities. We're prepared, on an ongoing basis, to review the effectiveness of the guidelines. When the public expresses concern about a particular activity, our response is, "Yes, we will continue to review these guidelines to see whether or not they can be improved." I'm not sure that they can be improved at the moment but we are always willing to try. We are always willing to invite the views of others who think they can assist us in improving our procedures, and we always must maintain an open mind. It's just not accurate to suggest we didn't have guidelines or that these guidelines have not existed for a long time.

Mr. Hilton: It would be the utmost conceit on our part to think we had all the answers.

We are prepared and anxious to have advice and assistance from people outside the ministry, people with other backgrounds and other experiences. These are the kind of people who are being asked to help. One can be too close to the problem sometimes. You don't see the woods for the trees. The assistance the minister is providing us in inviting these people to review will be of utmost assistance not only to us but to the community as a whole.

Mr. Lupusella: I don't want to prolong this particular topic, but since guidelines have been inexistence, can we see them? Can we be told where they came from? Who established these guidelines? I have material from the Ontario Police College about firearms in general, and I don't see any guidelines involved except to the Police Act, to which the police officers are bound.

Can we see these guidelines in order that the police officers have a clear idea of how to operate in that field? What I see in this material coming from the police college is an explanation about offensive weapons in the particular sections involved—no gun is a safe gun—

Mr. Chairman: Excuse me, Mr. Lupusella, Mr. Kerrio brought to my attention that possibly we are getting a little too specific on this general vote.

Mr. Lupusella: I think it's important. We have been talking about the appointment of Mr. Clement to look after the use of firearms in the province. Is that his name?

Mr. Hilton: That is who was retained by the Metropolitan Toronto commission to review the question of height and weight restrictions.

[12:30]

Mr. Lupusella: There was somebody else.

Hon. Mr. McMurtry: We are presently assembling all of the relevant information from inquests that have been held, and any other information that will be of assistance, including guidelines in other jurisdictions. The individual who will be responsible for reviewing that, independently of the ministry, has not yet been named. There was a name discussed with your caucus, and this is perhaps what you're thinking about.

Mr. Lupusella: I'll talk about the use of firearms when we get into the OPC vote. You also have in your ministry a police liaison co-ordinator who advises the minister and the deputy minister on current and anticipated problems within the public sector and the law enforcement field which may require the development of policy alternatives. He maintains close liaison with senior OPP, regional and municipal force personnel and the program managers of the ministry.

Also, the police liaison co-ordinator acts as the representative of the Ministry of the Solicitor General on the liaison group on law enforcement and race relations, an interministerial committee. Can we have general information about this task of the police liaison co-ordinator?

Hon. Mr. McMurtry: I should make it clear at the outset that we are not dependent upon this one individual for our liaison with the police. I have direct contact with many senior police officers, both in the OPP and throughout the municipal police forces in this province. We do have a police officer from the OPP who is assigned on a full-time basis. This officer changes from time to time, because it's important that any one police officer does not remain detached from police work for too long a period of time.

Detective Inspector Ron Kendrick is presently our liaison co-ordinator and he serves on the liaison group on law enforcement and race relations. He serves on committees dealing with, for example, seatbelt usage in Ontario where the Ministry of Transportation and Communications monitors seatbelt usage. He also sits on committees dealing with problems of child abuse, where the lead ministry is Community and Social Services.

He is involved in various other committees, such as the one dealing with reducing speed limits on the highway. He's very much involved in our program with respect to the use of the Alert devices and the development of a policy of short-term suspensions to get people off the highways on a voluntary basis for a short period of time.

Those are examples of the type of work that individual does. Again, it's important that we have somebody in the ministry who's had a great deal of practical experience as a police officer to represent the ministry on various committees, such as those we've outlined.

Mr. Lupusella: Are these committees making recommendations as well?

Hon. Mr. McMurtry: Yes.

Mr. Lupusella: Do we get full reports on what kind of recommendations have been made by the liaison group on law enforcement and race relations?

Hon. Mr. McMurtry: Yes, we can get you the reports.

Mr. Kerrio: Mr. Minister, I had rolled two or three questions into one. The first question was answered adequately as far as I

was concerned, but I wanted to raise two or three others.

I'm quite interested in any transfers of funds between various sectors of the ministry. As an example, I have before me the summary of comparative estimates by program document and the actual expenditure sheets. I draw your attention to those so that we can draw a comparison.

The first area of concern I have is, it appears there has been a shift of funds from OPP management and support services to OPP operations. If you look at that area you'll find roughly $4.5 million has been moved between those two areas. I wonder if that's a policy shift or if you could share with me the reasons for that kind of movement of funding?

Hon. Mr. McMurtry: I'll ask Mr. Peter Gow, who is the general manager of the ministry, to answer. He can shed more light on it than I can, because I think a lot of it is related internally.

Mr. Kerrio: Okay. If you look under management in the estimates of 1978-79, you'll find $27.885 million and the actual expenditures were $23.373 million. There has been a $4 million reduction from management and support services. Then when we go into operations you'll find there's been a substantial shift in the other direction. Based on last year's estimates and some projections, there seems to be a fair difference there.

Mr. Hilton: While my associates are getting the precise answer, I should point out we underspent last year—in fact, we weren't underspent but by reason of the change in policy in relation to the purchase of our vehicles—and I might say that the OPP is the single largest purchaser of vehicles in the government—we were caught at the year-end. We have to have our expenditures made by April 1. We had ordered cars—

Mr. Kerrio: That would be in operations?

Mr. Hilton: That's right. We had ordered cars as early as the previous summer that were not delivered by the manufacturers and dealers. We had to lose that, and it amounted to $1.02 million at the end of the year. That was a surplus in that account. We lost that money. It was just returned to the consolidated revenue fund. Had we got the cars even within the month of April we couldn't have charged them off against that money because the time of charging is the time of delivery.

Mr. Lupusella: How do you order these cars? Do you actually deal with the industry or do you use dealers who order these cars?

Mr. Hilton: We order our cars through the central car purchasing agency of the Ministry of Transportation and Communications. They place the orders.

Mr. Lupusella: Do they place the orders directly to the industry or through dealers?

Mr. Hilton: I'm not positive, but my information, whether it's correct or not, is that it's going through dealers in the communities where the car it is replacing is located.

Mr. Lupusella: Could you please check this information for me and, if it is feasible, get the name of the dealers used by the Ministry of Transportation and Communications in relation to such transactions on cars?

Mr. Hilton: I'll endeavour to do so.

Mr. Kerrio: Another area where there seems to be a considerable difference, as it relates to what we might consider reasonable increases or sort of increases in a steady manner, is the area of ministry administration. It would indicate quite a substantial increase over the amount spent in 1978-79, especially when the estimates last year projected a five per cent increase. It looks like quite a substantial increase, from $2.7 million to $3.3 million. Can you comment on what appears to be a substantial difference there?

Mr. Edwards: Perhaps I could answer that, Mr. Chairman? In part, the $690,000 increase is made up of new activity this year. We have the systems development services, which is $375,000. I'm presuming you're looking at the $2.705 million versus the—

Mr. Kerrio: Yes, in the estimates of 1979-80 they're up 26 per cent.

Mr. Edwards: Right. Part of that is the systems development services activity which was created for 1979-80.

Mr. Kerrio: Could you just touch on those services briefly?

Mr. Edwards: That is provision for management services officers or management systems officers, I'm not sure which. They're referred to as MSOs in the civil service. Those people were transferred from the Ministry of Government Services when its systems development group was disbanded.

Also in that activity we have an item for $250,000 for a vehicle registration project, which is a government project that's shared by three or four different ministries.

Mr. Kerrio: That would be the Ministry of Transportation and Communications, for one?

Mr. Edwards: MTC, the Attorney General, and I'm not sure who else. That's our portion of it, quarter of a million dollars. That

accounts for about $375,000. Basically, the other increases in that program would relate generally to salary and benefits increases that were approved through the bargaining process, et cetera.

Mr. Kerrio: The other area where there seems to be a substantial difference is in supervision of police forces, where you see in 1977-78, the actual expenditure was $6.716 million, with estimates roughly the same, and for 1979-80 we see a substantial increase, in the eight per cent area, when both previous estimates showed a negligible increase in that area. Are there any specifics for that?

Mr. Edwards: Yes, there are. About $132,000 of that increase is in the Ontario Police Commission, and that's almost all directly related to salary increments, again through the salary award process. The balance of that will be in the Ontario Police College. That will relate mostly to costs for the college—such things as heating, electricity, standard operating costs. That's basically an inflationary increase, the cost of food, et cetera, for the students there.

Mr. Kerrio: Thank you, Mr. Chairman.

Mr. Chairman: Thank you, Mr. Kerrio. It's an unusual event; I believe Mr. Lawlor was the last one to talk about the spending of money during estimates a year ago. We appreciate your contribution.

Hon. Mr. McMurtry: I don't think a single figure was mentioned during the Attorney General's estimates.

Mr. Kerrio: Coming from the private sector, where we have to generate the funds as well, I'm very interested.

Mr. Chairman: Coming from the private sector, I'm interested also.

Mr. Renwick: I'd like to deal with one specific matter. I'd like to complete the question that has been concerning me about the arrest and detention of Brando Paris from Friday, October 5, at about 6:30 p.m. until Tuesday afternoon, October 9, at two p.m. I hope this is the appropriate time to start on it.

Hon. Mr. McMurtry: I'm not sure I have the material. Someone was here the last day of the Attorney General's estimates with the material.

Mr. Renwick: I'm quite happy to raise that on Wednesday if I may.

It would be helpful to the Solicitor General if I could just recite into the record the facts, then it would presumably be possible to make certain we don't get bogged down in some disagreement about the facts.

Mr. Chairman: That's perfectly in order, Mr. Renwick.

Hon. Mr. McMurtry: Fine.

Mr. Renwick: Just before I begin that, may I ask one question, because we are concerned, as you know, about the appearance in the Legislature of the citizens' review of police complaints?

I have noticed, I think on two occasions and again yesterday, that the Solicitor General in speaking about this uses these words, "on this continent, an unhappy one," referring to the experience with this kind of citizen review. I wonder if he would tell us what he means by that in specific terms about jurisdiction?

Hon. Mr. McMurtry: I will get this information for you—

Mr. Renwick: If you can get it, that's fine.

Hon. Mr. McMurtry: —specifically with respect to areas where civilian-type review boards had been implemented and then disbanded because—

Mr. Renwick: That's the information we'd like to have; it would be helpful to us.

Hon. Mr. McMurtry: —they created a lot of unnecessary confrontation. I would describe the experience in New York as an unhappy one; Philadelphia; I think Los Angeles. But Mr. Sid Linden has been doing a lot of research into this area and we have a great deal of material that we will make available.

Mr. Renwick: If we could have the names of the jurisdiction by next Wednesday I would be quite happy. We can either do our own research or ask Mr. Linden for that information.

Hon. Mr. McMurtry: Yes.

Mr. Renwick: Mr. Chairman, Mr. Brando Paris, as I stated, was arrested and detained at two specific locations for the period from about 6:30 p.m. on Friday, October 5, until Tuesday, October 9, at about 2 p.m., when he was released on his own recognizance.

Briefly, the circumstances have to do with the Radio Shack picket in Barrie. The circumstances, as I know of them from beginning to end, are that on Monday, August 27, about eight o'clock in the morning Mr. Paris was arrested on the picket line. He was taken to the police station. He was charged with impeding and obstructing the police. He was there for about one to one and a half hours. He was released to appear on Tuesday, September 4. On Tuesday, September 4, he appeared and was represented by counsel and was remanded to

November 7. That case, as I understand it, was subsequently remanded to December 5 and is outstanding. I have no comment about that case or that sequence of events.

On Monday, October 1, Mr. Brando Paris participated in an early morning demonstration at Radio Shack and then returned to Toronto, quite unaware of any incident or circumstance that may have led to any subsequent involvement with the police.

On Tuesday, October 2, at 9:30 a.m. two Peel regional police officers came to his home. They wanted to talk with him and his wife told them he was at work and would be home at about six o'clock in the evening. Nothing further transpired so far as Mr. Paris was concerned until Friday evening, October 5, when at about six to 6:30 in the evening two police officers from the Peel regional police appeared at his home and at that point he was, in the technical sense of the term, arrested. He went willingly, but he was arrested.

He was taken to No. 12 station at Dixie Road and Eglinton Avenue where he was held for about three hours. When he entered the police car he was informed he had been charged with an offence of mischief arising out of some incident on Monday morning October 1.

That was his first knowledge of what the matter was about. Indeed, because it was the Peel regional police, he thought there was some mixup about some matter in the jurisdiction of the municipality in which he lived. He was held at No. 12 station until about 11 p.m., when Barrie police arrived and took him to Barrie, where they arrived about midnight.

He was fingerprinted in Barrie, his picture was taken, and he was locked in a cell in the police station. The justice of the peace appeared around midnight or shortly after that, spoke to him through the bars, advised him he was charged with mischief—"You are going to be detained for hearing"—and walked away.

Mr. Paris told me he tried to speak with the JP. He called after him, "Sir, sir, can I speak with you?" but the justice of the peace simply walked away. I asked Mr. Paris specifically how long the justice of the peace was in his view, and he said it couldn't have been more than two or three minutes at the most and he had no chance to say anything.

I emphasize he was not denied his right to call out from the station. Indeed, he did call from the police station to a person whom I gather was the head of the Steelworkers' picketing organization or headquarters. After the justice of the peace left, Mr. Paris was then removed from the police station and taken to the actual jail where he was held.

On Saturday morning, October 6, his lawyer, Paul Wessenger, came to see him, but nothing occurred because of that, so far as I know. In the evening my colleague, Ed Ziemba, went in to visit Mr. Paris, and of course we have discussed Mr. Ziemba's involvement during the estimates of the Attorney General.

Mr. Paris remained detained through until Tuesday, October 9, at 2 p.m. when he appeared in the court and he was released on his own recognizance, ordered not to participate in any union activity at Radio Shack, and went back to his home. The total period of detention was upwards of four days—about 90 hours—over the Thanksgiving weekend. As I say, on November 7 he was remanded on the charge to which I first referred, namely interfering with the police, and on the charge for which he was picked up on Friday, October 5, he has since been remanded to December 16 so the charges are both still outstanding in the court.

My concern is the sequence of police instructions, together with—as we agreed in the Attorney General's estimates—a statement about the actions of the justice of the peace for his short period of involvement. My concern also is with the length of the detention, the circumstances in which it occurred and the reasons for that lengthy detention. Despite any concern the police may have had about Mr. Paris, why were any procedures delayed until Friday evening of the long weekend before he was picked up? I think those facts are substantially correct and nonargumentative and perhaps that would be a good place to leave it for the moment.

Mr. Hilton: Mr. Renwick, may I ask you if there was an involvement, as far as you know, in either of these procedures, by the Ontario Provincial Police?

Mr. Renwick: So far as I know there was no involvement by the Ontario Provincial Police. I think the origin of the instructions was entirely with the Barrie police, and I believe the Peel police were simply acting on the instructions from the Barrie police.

Mr. Hilton: Thank you.

Mr. Lupusella: On the same vote, Mr. Chairman, I would like to talk for a while about an important topic which affects a lot of citizens.

Mr. Chairman: We have only four minutes, Mr. Lupusella, so if you are starting up a very elaborate and detailed matter then I

suggest that perhaps we leave it until we sit again.

Mr. Lupusella: Maybe I can provide the information so that the Solicitor General may have material ready on these topics.

It is in relation to the communications policy adviser branch of the ministry, which deals in particular with activities involving crime prevention and fire prevention programs. They are two important topics and I would like to spend some time on them.

I am of the opinion that the involvement of the ministry in that field is lacking. The statistical data in relation to crime and fire prevention are scary. In particular I would like to touch upon crimes against persons, crimes against property and the crime of breaking and the entering, which is a cancer on our society. It affects a lot of people. A lot of people remain psychologically disturbed as a result of that crime.

The statistical data on fire prevention also is scary. Charges of arson have been constantly increasing from 1974 to 1978. Attempted arson has also been on the rise. Conspiracy to commit arson has been increasing. We have also had a few cases of attempt to defraud, and other fire crimes have also been on the increase.

In 1978, we had 342 charges involving fire, with 366 pending. Although I know the Solicitor General's department is involved in crime prevention and fire prevention the final result is completely ineffective. Something must be done to solve this problem.

While I am talking about fire prevention and breaking and entering I would like to recommend that the minister should get deeply involved not just in the prevention of this crime, but to enact some sort legislation to solve it.

My personal thought—perhaps it is simplistic—is to make it mandatory that the Ontario Building Code should be revised in relation to that a lot of people are buying new houses. I don't think that the locks involved in them are adequately, safeguarding the residents. Also, instead of broadcasting commercials on radio and TV to alert citizens to this problem, I think architectural changes should be made in the future to take into consideration particular safety factors that would make breaking and entering difficult. The figures on that are just skyrocketing.

I realize the minister has been deeply involved in the prevention of this crime. As far as I'm concerned, and considering the final result in the statistical data, that has been a complete failure. We should address ourselves, and the minister should also, to solving this problem which is affecting thousands of citizens. Just to give you an idea, in 1977 we had 17,083 cases of breaking and entering and in 1978 we had 16,930, a reduction of 0.9 per cent. I hope that we are going to find the methods and the legislation to solve this particular problem instead of just broadcasting commercials on TV.

If there is any study in relation to this particular topic maybe the minister can reply more effectively when we reconvene. Thank you.

The committee adjourned at 1:02 p.m.

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No. J-26

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Solicitor General

Third Session, 31st Parliament
Wednesday, December 5, 1979
Morning Sitting

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 10:14 a.m. in room 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL
(continued)

On vote 1701, ministry administration program; item 1, main office:

Mr. Hilton: Mr. Chairman, in relation to tendering for automobiles, I was asked if we could make available the names of the car dealers throughout the province where tenders were sought. I am pleased to make a list available. I haven't counted them but I understand there are about 600. They are taken from a computer printout of the car dealers to whom requests for tenders are sent when cars are bought. I would repeat that this is done through the Ministry of Transportation and Communications, which is the central buying agency for motor vehicles, and that we are the single largest user of motor vehicles in the government.

Mr. Chairman: I would like to start off, however, before you do that, by calling a quorum.

Mr. Hilton: Oh, I beg your pardon.

Mr. Chairman: It is my problem and not yours and I apologize for not doing that immediately. We were on vote 1701, item 1. We have 11 hours and 11 minutes left in these estimates. If we are able to sit next Wednesday afternoon we should be able to finish these estimates comfortably.

Do you want to repeat that for the record or will we assume that—

Mrs. Campbell: For the record.

Mr. Hilton: I would think the record got those remarks, thank you. We will assume that they have been said.

Mr. Chairman: Fine.

Mr. Hilton: I make those available to you, sir. Mr. Renwick also, on the last day, requested—

Mrs. Campbell: Sounds like the day of judgement.

Mr. Hilton: If it was the day of judgement we survived it.

Mrs. Campbell: Yes.

Mr. Hilton: Mr. Renwick asked for those states where we had obtained information in relation to police complaints procedures. I am making available to him, Mr. Chairman, the reports of several states and universities in the United States that analysed the various state legislation. On the top of this pile is an index and the material indicated by the index is there. I hope Mr. Renwick can take the morning to read it.

Mr. Renwick: It is my unhappy lot to read about the unhappy experiences, I guess, is it? Are these from one point of view or can I consider these to be objective?

Mr. Hilton: I did not collect them, so my objectivity is not at stake.

Another question was asked, I think by Mr. Lupusella, in relation to the effectiveness of an advertising program in relation to crime. There is a statement here that is not long, with supporting material, and if I may I will read that into the record. It shows we are neither the best nor the worst.

"An analysis of available crime statistics shows that the rate of violent crimes per 100,000 population in 1976 for Ontario was 618.7. For all of Canada it was 595.6. Ontario's rate is lower than the western provinces but slightly higher than Quebec and the Maritimes. The violent crimes included are murder, attempted murder, sexual offences, assaults and robbery.

"A similar analysis of property crime rates per 100,000 population in 1976 shows Ontario at 4,685.4 compared with a rate of 4,623.0 for all of Canada." As with violent crimes, Ontario's rate was lower than for the four western provinces but slightly higher than in the Maritimes and Quebec, but you will note that they are practically identical with the national average. "The property crimes are breaking and entering, theft of auto, theft over $200, theft under $200, possession of stolen goods, and fraud.

"The rate for all Criminal Code offences in Ontario per 100,000 was 7,417.3 as compared with an all-Canada rate of 7,122.7. The same trend was in evidence in Ontario's rate being below that of western Canada but above that of the Maritimes and Quebec.

"Homicide statistics show Ontario's rate per 100,000 at 2.2, slightly below all of

Canada's rate of 2.9; the same as the Maritimes, 2.2, but below Quebec's 3.3 and the prairie provinces at 3.5 and British Columbia at 3.6" Again I would point out Ontario is only 2.2 per 100,000 population.

"The variation in these crime rates shows only a negligible change in 1977 and 1978, and as well to date in 1979. Although comparisons are possible between Canada and the United States, there is some difficulty created by different descriptions of certain crimes from jurisdiction to jurisdiction. However, for those crimes that are included in the US crime index, the following comparison can be made:

"Based on 1976 statistics the Ontario rate per 100,000 population was 4,231.6 as compared with 3,463.5 for all of Canada and 5,226.4 for the United States." Again only slight variations occur in 1977, 1978 and 1979.

"Crime index figures include murder, manslaughter, rape, robbery, wounding and attempted murder, breaking and entering, theft and auto theft. In general, the analysis of these statistics shows Ontario to be in the middle range in Canada, where crime rates appear to be increasing gradually as one proceeds from the east to the west. The Ontario rate is considerably below the US rate." The supporting material is attached thereto.

Mr. Lupusella: May I reply to that, Mr. Chairman? Such a comparison, of course, is helpful on one side but does not solve the major problem which exists here in Ontario.

I don't justify the problem by comparing it to other provinces across Canada. Also, the statistical data related to Ontario indicate there is a serious problem. I don't think this serious problem can be solved or adjusted through commercial advertisements on television.

Hon. Mr. McMurtry: Who ever suggested that it could? I never heard such a silly statement in four years in the Legislature.

Mr. Lupusella: I'm sorry, I didn't complete my statement. I'll come to the point, but you have to give me an opportunity to complete my statement. The policy of the minister in some way in the past and at the present time has been to make sure the police become more visible so that the visibility of the police force is in some way a deterrent indication that crime can be controlled in some way. I think through previous statements you indicated that visibility of the police force is in some way a deterrent indication to fight crime as well. You can't deny that.

In relation to particular crimes such as breaking and entering you have also policies in your ministry that certain prevention can be made and can also be very effective through advertisement. I think the minister carried out this message through commercials on television and radio to fight to prevent certain types of crimes. I'm not talking about all crimes in general.

My particular concern is in relation to breaking and entering. Besides these particular policies that have been implemented, my concern is if the minister can undertake other provisions to fight crime. In relation to breaking and entering, for example, and I'm just using an example, perhaps the building code can be modified to make it compulsory that all builders and contractors use deadlocks on new construction. That could also be an effective tool to prevent crime.

Also, if we move in the direction that certain architectural changes be made to take into consideration the safety of the house, in relation to property crimes, that can be an effective tool to prevent crimes as well.

I want to know from the minister if there is any direction in his ministry that those things are going to be done. This particular crime especially is becoming a cancer of modern society. We need more than advertisements; we need more than police visibility in the neighbourhood; we need more than the identification program on goods. I guess we also need legislation. Is there any direction forthcoming from the minister to take these things into consideration?

Hon. Mr. McMurtry: I'm having some difficulty in appreciating just the thrust of Mr. Lupusella's remarks. Obviously any direction that would lead to a wholesale reform of the community would be desirable. In that, I suppose, we all as citizens have a responsibility.

With respect to the serious problem of breaking and entering, it has the lowest clearance rate of any indictable offence. After the Ontario Provincial Police "Sting" operation in Ottawa one of the points we continue to make clear is that breaking and entering thrives in this country because a large segment of the population unfortunately supports the industry. I don't mean the majority of the population, of course, but a number of people who would feel shocked if it were suggested they were criminals. I'm talking about the large market for stolen goods that exists in this country.

As I've said before, the problem is the so-called law-abiding citizen who is prepared to buy building materials or other stolen goods in circumstances which should lead any reasonable person to suspect the source of these goods and materials. I think the question

you're addressing yourself to is a very important question, but a very difficult one. We're really talking about the morality of society as a whole. There are obviously no simple solutions.

One solution I feel strongly about is the whole area of education. I think there should be more education in the schools in relation to the need for individuals to respect the property of others—the property that belongs to all of us, if it's public property. We're not only talking about the very serious problem of vandalism, but related problems such as breaking and entering and theft. I would like to see the schools do more to teach a higher standard of ethics when it comes to respect for other individuals' property.

We in the Ministry of the Attorney General have been promoting the concept of legal education in the schools. The Law Week that was recently experienced in Hamilton was hopefully something that will be duplicated across the province. It is but one perhaps relatively modest initiative, but we are talking about a whole range of initiatives that must be required.

I believe police visibility is a factor. I made that clear so far as safety on the highways is concerned in suggesting that we require additional OPP officers. The police budgets during the 1970s have increased very dramatically and a great deal of concern has been expressed by people who have budgetary responsibility in the various municipalities as well as by the taxpayers about the extensive increase in police budgets. We recognize that no society will ever be able to afford the level of police visibility we would like to have.

What you're really talking about is eliminating some of the root causes. The root causes, of course, are very many. Some are obvious, some are less obvious. At a time of economic downturn and unemployment we can expect an increase in this type of criminal activity. An example I've mentioned is the lack of morality that infects society when many people will purchase goods they really should know have been obtained by questionable means, to put it mildly.

The alienation in the community generally, which is part of modern urbanized society, encourages people to engage in antisocial conduct of all kinds, including, of course, looking at crime as a business. This is a great problem.

[10:30]

It may be that if people are encouraged by building codes or otherwise to make their premises more secure it would be an initiative that should be taken. But it would only be scratching the surface. A cabinet colleague's home has been broken into twice in a period of three or four months. They've made all sorts of efforts to make their premises more secure.

You're dealing with some very basic problems in modern day society that are not going to be policed out of existence. It's only by developing, I think, a greater respect in the community for the laws that are there to protect the rights and the property of all of us that we're going to reverse these statistics in any significant way. There are just no obvious solutions.

The amount of money that we have to put into any sort of media commercials is so small it probably doesn't represent more than the cost of a couple of policemen on some municipality's payroll for one year. I don't know what it is. Perhaps somebody can tell us.

Certainly effective policing has to be a high priority for us. I think the police officers of today are much better trained than they were a decade ago. For example, the OPP anti-rackets branch dealing with commercial crime was just a handful of officers a few years ago. Now it's a large number of officers because of the increase in highly-sophisticated commercial crime. We all wish we had clear answers.

Mr. Lupusella: If I may reply, I'm glad the minister shares my view that education is an important factor in trying to solve this type of problem. Education of this type should start at the very beginning when the children first go to school. I expressed this view in previous estimates. I'm not sure you went through the content of the principles which I set out in the past.

I wish the government would undertake this task. We are concerned that widespread education should start in the school. I think you share this concern, but we have to initiate these programs in a very effective way in order that the public will get some of this type of education we are talking about.

Also, you stated that modification of the building code just scratches the surface of the problem. I agree with you, but it can be quite effective in reducing the number of these serious crimes. Nobody doubts in his own mind that it's a serious crime. It affects a large segment of our society. It affects people in the privacy of their own home. There is psychological trauma from this crime, affecting children in the family as well. I think a good deal of effort should be initiated as soon as possible.

By the way, it was my impression that breaking and entering was a juvenile crime.

At least, that's what we read in the media. But it is not true that it is a juvenile crime. If you go to the statistical data, you find the number of juveniles under 16 totalled 1,606 in 1978. The number of adults charged in 1978—and we are just talking about people who have been detected by the police; those figures don't reflect the general picture of this crime committed across Ontario—was 3,591.

The minister stated that maybe the modification of the building code would be only a surface solution to the problem, but it should be implemented. I'm sure a good number of crimes are the result of this practice. The structure of a modern house does not make it safe at all. I hope something will be done.

Mr. Chairman: Thank you, Mr. Lupusella. Mrs. Campbell has one supplementary on the report that was just given.

Mrs. Campbell: I think I have two.

Mr. Chairman: I'm hoping you'll have one, and then I'll let you ask the other one after. The Solicitor General must go to a short meeting with the Premier for 10 minutes, and we have Mr. Rod McLeod here, who would be able to deal with the Radio Shack matters that were raised. My suggestion is that Mrs. Campbell ask her supplementaries, we have a 10-minute break, and then we move to the Radio Shack matter so that we may have those staff released whenever that's over. Does that meet with the approval of the committee? Fine.

Mrs. Campbell: I want to raise two problems, one following the break-and-entry situation. In my riding I'm doing battle—I think I'm losing, but I'm still fighting. In a series of apartment buildings owned by one landlord there has been a series of break-ins.

Some of the tenants have undertaken to put other locks on their doors and they have been advised that those locks must be removed. When I have sat with Metro police—who have been doing a great service in trying to help people overcome this problem, particularly in apartment buildings—you really feel a sense of frustration. They really can't tell you very much about how to protect yourself. They do their best and they issue the caution about not opening your door. That's great, but basically there is very little the police are able to do in this area.

I would think there is some responsibility in this ministry concerning landlords who take this position. Obviously if people put in different types of locks we all know that isn't a total answer. If they give a key to the landlord it does seem to me that landlord has very little right in those circumstances to demand the removal of those locks. They are in the project in the north end of my riding. I'd like to know your answer to that.

The second question I have is on your statistics. You did give the homicide statistics. You did not give the sexual violence statistics. I'd like to have those.

Mr. Chairman: I've asked the clerk to reproduce the document which was given to Mr. Lupusella so that all members of the committee may have it.

Hon. Mr. McMurtry: In response to the first question—

Mrs. Campbell: Maybe you can help me fight my war.

Hon. Mr. McMurtry: —the Landlord and Tenant Act would obviously have some application here. I forget exactly what the act has to say on it.

Mrs. Campbell: Nothing on that.

Hon. Mr. McMurtry: What I am interested in is learning what the prohibition is that would affect tenants so far as being allowed to put in their own locks.

Mrs. Campbell: The landlord claims it is a safety matter and if there was a fire they would have problems with keys, but it seems to me that could be very easily overcome.

Hon. Mr. McMurtry: Mrs. Campbell, in view of your concerns we will just have to take a look at that. First of all, I would be interested in knowing what the police forces recommend in areas like Metropolitan Toronto in relation to advising tenants to change their locks from time to time. One has to balance the effectiveness of such a course of action against any safety concerns. I would be glad to look at that.

Mrs. Campbell: Thank you.

Mr. Chairman: I think you will find, under the new Residential Tenancies Act, there is a space in the new lease form where many landlords may write in a clause that you are not allowed to change the locks.

Mrs. Campbell: They do. Of course, it isn't in effect yet.

Mr. Chairman: Unless you deal with that in some kind of statute which says that cannot be part of the negotiable agreement then we are going to have a number of tenants and landlords going before the Residential Tenancy Commission trying to argue that particular point.

Mrs. Campbell: If the act comes into force. Under the old Landlord and Tenant Act they could make whatever arrangements they liked in their leases.

Hon. Mr. McMurtry: We can look for those statistics.

Mrs. Campbell: Thank you.

Mr. Chairman: We will recess for approximately 10 minutes.

Mr. Renwick: Is 10 minutes realistic?

Mr. Chairman: The Attorney General informed me it would take 10 minutes.

Mr. Renwick: Shall we be back here at 11 o'clock rather than in 10 minutes?

Mrs. Campbell: Bring the Premier back with you.

Mr. Renwick: It will take you 10 minutes to get there.

Mr. Chairman: We will recess until 11 o'clock.

The committee recessed at 10:42 a.m. and resumed at 11:09 a.m.

On resumption:

Mrs. Campbell: Mr. Chairman, I think we should commend the Attorney General for his judgement in absenting himself from those infernal bills which the rest of us had to sit through last night. He left poor Mr. Sterling holding a large sack. It was awful. Your judgement was excellent. Your courage, or your endurance, was not bad.

Mr. Chairman: I would like to remind the committee that we are under considerable time restraints in these estimates. We have now agreed to deal with the matter of Radio Shack. The minister has some people present he no doubt wants to introduce to us and then we can start the questioning.

Hon. Mr. McMurtry: What I would like to do, Mr. Chairman, in response to some of the questions raised by Mr. Renwick on the last day of the estimates, is to deal first with the activities of the police in respect of this matter.

We have obtained fairly comprehensive information in that regard. I have not had an opportunity of reviewing it in detail myself because of some other problems that have arisen, but Mr. Rod McLeod is here and, as you know, he is the assistant deputy minister and director of the criminal law division of the Ministry of the Attorney General. Because of the involvement of the justice of the peace and the overriding interest to the administration of justice generally, this was a matter we took under advisement early on. We have been dealing directly with the police through the Attorney General's ministry. We've dealt through Mr. Takach, for the most part but Mr. Takach is out of town on a trial.

Mr. McLeod is briefed. Actually he is Mr. Takach's senior and is familiar with the file and has copies of the police reports and matters of that nature. I think it might be helpful if Mr. McLeod were to outline the activity of the police in relation to attempting to serve Mr. Paris with the summons—or I guess it was not just serving a summons on him; it was the arrest with respect to the second charge. Perhaps Mr. McLeod would outline just what the police activity was until the time Mr. Paris was placed in custody in Barrie, unless Mr. McLeod would like to approach it in another fashion.

Mr. Chairman: I am going to ask Mr. McLeod to make his statement without interruption and then we will entertain questions to Mr. McLeod or to the Attorney General on it. I don't think it is appropriate for there to be any interruptions during his statement.

Mr. McLeod: Thank you, Mr. Chairman. It is our understanding that Mr. Renwick's first concern was with respect to the period of time from October 1 to October 5, and more particularly the involvement of the police in effecting the arrest of Mr. Paris.

I should say at the outset that because there are charges against Mr. Paris which are currently before the court, the extent to which it is possible for any of us to comment on any aspects of this may well be limited.

Mr. Renwick: That is well understood.

Mr. McLeod: I would suggest the easiest way to do it is to try to cover it chronologically from Monday, October 1, to Friday, October 5, as quickly as I can.

First of all, it is important to indicate that Mr. Paris was not arrested on the site of the picket line because it was not until a later time that he was identified as the person against whom the allegation was being made. That identification was done by way of a photographic lineup at a later time. A warrant was taken out for his arrest. I think it is important to point out that one of the reasons, at least, for there being a warrant for his arrest was that he was at large on a pretrial release order on other charges at that time.

I have a copy of the warrant which I can table if it meets with the committee's pleasure, and provide to Mr. Renwick. I don't know whether he has had a chance to see a copy of that.

Mr. Chairman: I wonder if the Attorney General would advise his staff that when they bring papers it may be of interest to all members of the committee? Perhaps they can bring them to our attention before so that we can get copies.

Hon. Mr. McMurtry: Generally we do, Mr. Chairman. In this case, in order to accommo-

date the committee in Mr. Takach's absence today at a trial, and because the committee wanted to deal with this today, Mr. McLeod has—

Mr. Chairman: I don't want to debate the issue. I simply wanted to make the point. Thank you. Please carry on.

[11:15]

Mr. McLeod: Thank you, sir. When the warrant of arrest was issued, it was in the ordinary course put on to the Canadian Police Information Centre system as a matter of routine police procedure. I also have a copy of the police telex, which again I can table if I may and provide to Mr. Renwick for purposes of his understanding the flow of the chronology at this time.

The procedure followed by the Barrie police at that time, as far as we've been able to determine, was a perfectly normal and routine procedure. One might question whether it might have been better if Barrie police were to try to arrest the person, but I think I can advise the committee that the usual procedure in a situation like that is to put it through on CPIC and use the services of the local police force in the community where the person resides. It doesn't make sense to have Barrie police officers running down to Peel looking for people with no idea whether they're there.

On the morning of Tuesday, October 2, the Barrie police caused a telex to be sent to Peel Regional Police asking if the warrant had been executed. I would table, if I may, as a third document, the telex that went at 8:48 a.m. Tuesday, October 2, inquiring of Peel whether the accused had been arrested.

The Peel Regional Police, upon receiving the original information over CPIC that this person was the subject of an outstanding warrant, assigned it to one of their divisions in the ordinary way. I will table in a moment as a fourth document a police report to Deputy Chief William Teggart of Peel Regional Police from Inspector Middaugh, who was involved on behalf of Peel Regional Police in summarizing their involvement in this matter.

That report describes in its second paragraph—and if I can, Mr. Renwick, I'll proceed through a couple of other paragraphs before handing it to you—that they assigned it to one of their officers in the ordinary course.

As I understand it, Mr. Renwick, you had indicated in this committee earlier it was your understanding that the Peel officers did go on the morning of October 2 to Mr. Paris's home in an attempt to effect an arrest.

Mr. Renwick: About 9:30 a.m. on Tuesday, October 2.

Mr. McLeod: That is certainly confirmed by the general occurrence report of the Peel Regional Police, which I would tender as a fifth document for the committee. I could show that to Mr. Renwick at this time.

Upon learning at Mr. Paris's home that he was not at home and that he would be home from work in the evening, the Peel officers did what I would respectfully suggest was a reasonable thing; that was to transfer the work of executing this warrant of arrest from their day-shift people to their afternoon shift. The intention then was to proceed and have the afternoon-shift people attempt to execute the warrant of arrest.

There is a further variation in the telex documents because, in the first instance, as a result of a mistake by the Barrie police, the CPIC message for the arrest was limited to a 15-mile radius. That was corrected on the Tuesday and increased to a 100-mile radius. There is an exchange of telexes back and forth between Barrie and Peel with respect to that.

I would suggest that mistake by Barrie did not really affect things in any way because Peel Regional Police had already put the matter into operation on the Tuesday when they received the first telex message.

In any event, what is perhaps relevant is that in the course of that exchange of telexes, Peel, in the ordinary course, sent a telex back to Barrie seeking confirmation that they did want the person arrested in Peel, more than 15 miles away. I would table that document as document number six, if I may.

Mr. Renwick: What is the date of that? October 2, 4:04 p.m.?

Mr. McLeod: October 2, Tuesday. As a seventh document I would table copies of two telexes, the first of which is increasing the 15-mile radius to 100 miles and the second is Peel acknowledging receipt of the information about the new 100-mile radius. Perhaps most importantly, the second adds a request from the Barrie police to the Peel Regional Police to try to have the accused arrested by 8 a.m. on October 3, 1979, for a bail hearing. The document which I have before me as the seventh document contains a summary of the telex in handwriting on the right-hand side which reads, "Request to have accused arrested by 0800 hours, October 3, 1979, for bail procedure."

I referred earlier to document number four, which I have not yet tabled. I made reference to its second paragraph. Perhaps I should just read that briefly. This is the inspector's report to Deputy Chief Teggart, Peel Regional Police.

The second paragraph reads: "The message was forwarded to 12 Division via CPIC and assigned to Constable Ray Price of the patrol bureau. Preliminary inquiries revealed Paris was not in through the day. As a result, a general occurrence was completed and left for follow-up by the four-to-12 bureau officer." That's the part that I've already referred to.

Mr. Renwick: That would be the Tuesday evening?

Mr. McLeod: The Tuesday, I'm sorry. You're right.

The third paragraph then reads: "After signature by Acting Staff Sergeant Gage the occurrence was assigned to Constable Steven Phillips. He returned the occurrence to Staff Sergeant Maybee who relayed it to the station duty officer with instructions to confirm the warrant and the radius of return with Barrie Police Department." I've already referred to that part as well.

"The return message was not received until late in the four-to-12 shift, confirming the warrant and the 100-mile radius of return. At this time Constable Phillips was too busy with four missing juveniles and was unable to attend at the Paris residence." That refers to October 2 and the matters that I've already referred to in discussing the telexes.

The report then carries on: "The entire file was then left for the afternoon platoon on Wednesday, October 3, 1979, which was a completely new platoon. The investigation was assigned to Constable Lowry and subsequently on Wednesday, October 3 and October 4, he made numerous checks (three to four per shift) in an attempt to locate Paris, but could not find anyone at the residence."

That takes us up to Thursday, October 4. The report carries on in its final paragraph on the first page: "On Friday, October 5, another message was received from Barrie Police Department requesting the warrant be executed. Constable Lowry was still maintaining the file and during his tour of duty did locate Paris at his residence. The arrest was made under the authority of the warrant."

Mr. Renwick: At about six to 6:30 in the evening?

Mr. McLeod: I think that is accurate. The figure I had was 6:30. He was transported to the Peel station and the arrival time there was 7:39 p.m. Friday.

To the best we've been able to determine up until that point, it appears that on Tuesday morning the officers went there and were instructed he was not at home, he was at work and would be available after six when he would come back from work. They then adjusted their procedures to have it looked after by the afternoon shift and spent the rest of the week going there several times during the afternoon shift to try to find him.

In fact, the situation was that Mr. Paris was in Toronto at a meeting at one of the downtown hotels here and had been away from his residence all week.

Mr. Renwick: It was the NDP convention, I think. No, he wasn't, it must have been—

Mr. McLeod: My instructions are it was some other meeting, but that would appear to be quite irrelevant. I would suggest the important point, it seems to me, would be that the police were put in a position of expecting him to be available at his home every night during that week by the information they received and quite properly went about their duties trying to find him, whereas the evidence now appears to be clear that he was never there and never intended to be there during that stretch of time.

Mr. Renwick: What do you mean "never intended to be there"?

Mr. McLeod: What I refer to is that the police were advised—

Mr. Renwick: You are not suggesting that Mr. Paris was evading the police?

Mr. McLeod: I make no suggestion of that kind. I only mean to point out that the advice given to the police at the time that they arrived at his house on the morning of the second was, "Come back at night and he will be home after work," whereas Mr. Paris at the time of his arrest indicated to the police that he had been away from his residence all week at this particular meeting in downtown Toronto.

Mr. Renwick: Let me just clarify that. There is no indication that the police tried to go to his home on the Tuesday evening.

Mr. McLeod: There is no indication? That is correct. The report of the police is that during the early part of the evening they were confirming the 15 to—I think the points are this: Number one, there is a new afternoon shift on—I'm sorry, that's Wednesday, not Tuesday. Number one, during the early part of the evening they were confirming the radius of 15 miles to 100 miles, and at the later point of the evening when they were able to confirm that, the officer assigned, as indicated in Inspector Middaugh's report, was busy with four missing juveniles and unable to attend at Mr. Paris's residence.

Mr. Renwick: But there was no effort then to go to his home either on Tuesday evening or first thing on Wednesday morning? In other words, there was no compliance with this request to have the accused arrested by 0800 hours on October 3 for a bail hearing.

Mr. McLeod: I suggest, to be precise, no one went to his residence on Tuesday night, no one went to his residence on Wednesday morning. Whether it is accurate to say there was no effort made, I'm just not quite sure that is an accurate statement, in fairness to the Peel Regional Police in the circumstances at the time.

Mr. Renwick: I'll withdraw those words. I'm just talking about the factual matter, I'm not imputing anything.

Hon. Mr. McMurtry: I assume the information they had was that he would be working during the day.

Mr. Renwick: I just want to establish a very simple thing—and I'm not imputing anything to anybody—that there was no attempt made to go to his home on Tuesday evening or first thing Wednesday morning. That is my understanding from what you have said.

Mr. McLeod: I don't want to be picky with words. It's not my function, I don't think, to debate the words with you. All I am saying is that through the early evening of the Tuesday, the Peel Regional Police were in the process of confirming the radius to give them the authority to arrest. It would seem to me that was in the nature of an attempt to fulfil their duties.

Mr. Renwick: Let me withdraw the word "attempt"; did not attend at his home on the Tuesday evening or on the Wednesday morning.

Mr. McLeod: Quite so. We've indicated that the accused was then taken to the station. I think it's perhaps readily understandable that through the Friday night traffic in Brampton it would take a little bit of time to get to the station. Barrie police were notified. I suppose in an ideal world there would be two Barrie police officers sitting in Barrie with their motors on, ready to proceed directly to Brampton to arrest the accused.

Mr. Renwick: I've never lived in an ideal world, so I wouldn't know how it would function.

Mr. McLeod: The real-life situation was that it took a little bit of time to get two officers on duty away from other duties they were performing at that time. They arrived at Peel at 10:10 p.m., and shortly thereafter Mr. Paris was transported back to Barrie and taken before the justice of the peace, the Barrie police having made arrangements while the escort was in process to have the justice of the peace available so that no time would be lost after Mr. Paris's arrival and he could see the justice of the peace at the earliest opportunity.

[11:30]

That, Mr. Chairman, completes the involvement of the police up to the time of the appearance before the justice of the peace. The next segment Mr. Renwick was concerned about was with respect to what happened in front of the justice of the peace; what was it that resulted in Mr. Paris being detained from Friday to the Monday.

Mr. Renwick: Tuesday.

Mr. McLeod: Tuesday, sorry I wonder whether I should go on and cover that area or not.

Mr. Chairman: Carry on, please.

Mr. McLeod: Thank you. As I have already indicated, and I think as Mr. Renwick indicated earlier, Mr. Paris had been charged in late August with an offence of caused disturbance and an offence of obstructing a police officer, and was at liberty on pretrial release with respect to that particular offence. Obstructing police is a dual-procedure offence and is therefore classified as an indictable offence, at this early stage in the procedure. This is one of the reasons why the warrant was issued in the first instance.

It had a very significant other effect because of the fairly recent amendments to the Criminal Code with respect to pretrial release. Because Mr. Paris was at large on pretrial release in respect of an indictable offence, the provision of the Criminal Code put the onus on Mr. Paris to show cause he should be released with respect to this new October 1 alleged offence.

So it was a very different situation from what one would ordinarily expect to find with an accused being brought before a justice of the peace on a charge of mischief in the early hours of the morning or late at night. The law is very clear that in that situation the justice of the peace has to be satisfied that the accused has shown cause why he should be released, if he is going to release him. Secondly, the law is very clear that the justice of the peace has to accord the accused a reasonable opportunity to prepare himself to show cause.

When the accused was brought before the justice of the peace under these circumstances, the justice of the peace asked Mr. Paris, if he wanted to be released, to show cause to be released. Mr. Paris indicated that he did and, under those circumstances,

the justice of the peace remanded him to the next bail court which was Tuesday at 2 p.m.

Mr. Renwick: Mr. Chairman, perhaps Mr. McLeod would just review for us again the procedure that the law requires, so that I fully understand the procedure as to what the duty of the justice of the peace is in these circumstances at, say, 11 or 12 o'clock at night in the Barrie jail?

Mr. McLeod: Assuming it's a situation where the onus is on the accused, and it is, the justice of the peace has to determine whether or not the accused wants to show cause for release. He cannot be released unless the accused shows cause. That is the law. So obviously the justice of the peace must—

Mr. Renwick: To whom can he show cause?

Mr. McLeod: He can, in law, show cause before the justice of the peace or before a provincial court judge; in other words, before any justice.

Mr. Renwick: I just wanted to establish that he could show cause before the justice of the peace in the jail that night at 11 o'clock.

Mr. McLeod: If he wanted to.

Mr. Renwick: If he wanted, right. I don't want to cross-examine you, I'm just trying to clarify it. Then, as I understand it, he said to the justice of the peace he did want to—

Mr. McLeod: I'm sorry, I wasn't clear. He said he wanted to be released.

Mr. Renwick: He wanted to be released.

Mr. McLeod: He did not say that he wanted to show cause that night, as far as I'm advised.

Hon. Mr. McMurtry: I think there is another matter here too, that Mr. Takach brought up that I think may be relevant and that was the instructions of the chief provincial court judge with respect to the manner of a show-cause hearing, that he had instructed JPs—correct me if I am wrong, Mr. McLeod—my recollection is that he instructed JPs not to conduct court, particularly in relation to an important matter such as a show-cause hearing, in jails or jail cells, but to make the proceedings open in the courtroom and on the record.

Mr. Renwick: Could we have a copy of those instructions?

Hon. Mr. McMurtry: I don't have a copy with me. I can certainly ascertain it.

Mrs. Campbell: For the committee.

Mr. McLeod: If I could add to that point, Mr. Chairman, my understanding is that the chief judge's directions to the justices of the peace throughout the province in that connection arise in large measure as a result of requests of the defence bar in this province who did not feel that the conducting of show-cause hearings before justices of the peace in jails and police cells was a proper way to carry out show-cause hearings, if only because of the fact that it resulted in a lot of the people being held in custody by orders of justices of the peace in circumstances where the accused was being required to go through a show cause when he really wasn't prepared to.

Mr. Renwick: I'm not interested in the jurisprudential arguments between the lawyers and the judges.

Hon. Mr. McMurtry: I'm sorry, I am interested in these matters. I think they are very relevant.

Mr. Renwick: Mr. Chairman, I'm trying to get the situation correct from Mr. McLeod. Mr. McLeod indicated that when the justice of the peace asked Mr. Paris whether he wanted to show cause, Mr. Paris said he wanted to be released. Is that right?

Mr. McLeod: Could I interrupt you? My information is that the judge asked Mr. Paris if he wanted to be released. Mr. Paris said, "Yes, I want to be released."

Mr. Renwick: "Yes, I want to be released." Right.

Mr. McLeod: The procedure from that point on was that the justice of the peace, knowing it was a reverse onus situation and knowing there had to be a show-cause hearing, then remanded the accused pursuant to the chief judge's directions, because he could not have a show-cause hearing in that situation.

Mr. Renwick: But he is authorized to have it, apart from these instructions. He is in law entitled to hold the hearing, is he not?

Mr. McLeod: He is. Under the Criminal Code he is, subject to the fact that the justice of the peace derives his jurisdiction in this province to act in Criminal Code matters only pursuant to the direction of the chief judge of this province under the Justices of the Peace Act.

Mr. Renwick: So you are saying that a justice of the peace in the province of Ontario at the present time, because of the instructions of the chief judge, is not entitled to have a show-cause hearing in the circumstances in which Mr. Brando Paris was detained that night?

Mr. McLeod: That certainly is the practice pursuant to the chief judge's direction. Again, it's not my function to debate it, I don't think. It's one of the very important things to take into consideration on these facts.

Mr. Renwick: I'm not asking you to debate it. I want to get the facts straight.

Hon. Mr. McMurtry: May Mr. McLeod be permitted to continue?

Mr. McLeod: The real-life fact to take into consideration is that because the onus was on him, because he was on bail at that time on a previous indictable offence, the chances were probably fairly significant that he would not have been released that night if he had sought to have a show-cause hearing. He might well have wound up with a detention order, and that is the very rationale for part of it.

Mr. Renwick: He may well have. I am saying he was not allowed to have a hearing that night for whatever the reasons may be.

Mr. McLeod: We have to be very careful here. There is no evidence that I know of that he asked for one.

Mr. Renwick: He asked to be released.

Mr. McLeod: He asked to be released and he was then—

Mr. Renwick: I had thought that show cause was to show cause why he shouldn't be detained.

Mr. McLeod: Certainly it is. Just as the remand to give the accused the opportunity to prepare for a show cause is, of course, very much a part of the procedure as well. The other thing to bear in mind is that prior to all of this happening, Mr. Paris had been permitted to contact anyone he wished to by phone. He did in fact make two phone calls, and I think it's not an unreasonable inference for the police to have drawn at that time that at least one of those two phone calls would have been to a lawyer. As I understand it, Mr. Renwick, you indicated that in fact a lawyer did come to see him the following day.

Mr. Renwick: Mr. Wessenger came on the Saturday morning.

Mr. McLeod: I have no way of knowing, nor do the police or the crown, to whom those two phone calls were made on the night of the fifth, but he was given that opportunity before being taken before the justice of the peace. The rest of the facts are as stated.

Mrs. Campbell: I'd like to get the time frame between the time he arrived in Barrie and the time he went before the justice of the peace. Do you have that?

Mr. McLeod: I don't think that I can give you an exact time.

Mr. Renwick: It was relatively prompt. It was around midnight that he arrived and was—

Mrs. Campbell: I know that, but we have heard he made two phone calls. We have heard an inference from that, that a lawyer had been contacted. I wondered if he had an opportunity, at least if there was time allowed, by which he could have had some indication as to what his situation was.

Mr. McLeod: In all the information I have received, Mrs. Campbell, I don't think there was any suggestion of him being rushed before the JP before a lawyer had a chance to get there. He personally indicated that he wanted to make one call. He was given the opportunity. He made it. After that call he then said, "I want to make another call." He was given the opportunity. He made it. Sometime shortly after that he was taken before the justice of the peace.

Mr. Renwick: There is no dispute about that part of it. I don't know how many calls he made, but there is no suggestion he was denied his right to call. Perhaps you could just tell us a little bit more from the time the JP arrived at the cell until he left?

Mr. McLeod: I'm sorry, I don't have times for the JP's appearance.

Mr. Renwick: And no statement from the JP himself?

Mr. McLeod: Not with respect to those matters.

Mr. Renwick: Not with respect to what took place?

Mr. McLeod: Yes, with respect to what took place, but in a slightly different context, Mr. Renwick. Not with respect to "I arrived at the cell at such and such a time and I stayed for such and such a time." I don't have any statement on that.

Mr. Renwick: Mr. Paris told me the JP turned and walked away, Mr. Paris tried to get his attention but he had no chance to say anything. It was two or three minutes at the most. I think that solves that problem, that Mr. Paris was, for whatever the reasons, not given an opportunity at that time to show cause.

Mr. McLeod: I'm sorry, Mr. Renwick, based on the information I have, that simply is not an accurate statement.

Mr. Renwick: Why not?

Mrs. Campbell: Why not?

Mr. McLeod: Sorry, Mrs. Campbell. As I understand the facts, the justice of the peace asked him if he wanted to be released. The usual procedure to be followed is to remand to give him the chance to prepare. He had been in contact with two people—whoever, we don't know—by phone.

Mr. Renwick: Did the justice of the peace know that?

Mr. McLeod: I don't know whether the justice of the peace did, but the prosecutor, the police officer, certainly did. If what you are saying is that nobody, justice of the peace or prosecutor, said to Mr. Paris, "The law is that you have to show cause because it's a reverse onus, and the practice is you have to do that in an open court and not here, and therefore you can't do it tonight," I can't just agree with any suggestion you might make that that kind of thing was not said to him.

Mr. Renwick: Did the justice of the peace tell him when he would be heard?

Mr. McLeod: Yes, he was remanded to the first available bail court on Tuesday at 2 p.m.

Mr. Renwick: The first available bail court? Was he told it would be Tuesday at 2 p.m.?

Mr. McLeod: The only information I have is that the justice of the peace did remand him to 2 p.m. Tuesday, and I therefore can only conclude that he was told.

[11:45]

Mr. Renwick: I appreciate it. Thank you for the information. I guess I can only ask the Attorney General these questions: Why was it necessary to inflict this confinement on Mr. Brando Paris? If his continued liberty was a hazard, why didn't the police pick him up at the earliest possible moment?

Since he went without any argument there was no likelihood that he was going to abscond. Why wasn't he granted an opportunity for a show-cause hearing either that evening or on Saturday morning; and why was he confined for some 90 hours on this matter? The second charge against him is presumably under—I don't remember the code numbers—the 380s somewhere: "Did commit mischief by wilfully damaging without legal justification and without colour of right the automobile of Tom McLennan by scratching the body, which damage did exceed $50 in value, contrary to the Criminal Code."

The second charge was mischief. He returned to his home unaware that he was going to be charged with anything. I suppose what I'm saying is he could have been picked up, taken to Barrie during the week and given his bail hearing. As it turned out, he was released as long as he agreed to stay away from the picket line.

Instead of that, for whatever reason, he is picked up on Friday night of the long weekend and he is detained for 90 hours. I consider that improper. I would like to have the actual instructions of the chief judge with respect to this kind of bail matter because I would like, to the best we can here, to try to see that this procedure is rectified so that this kind of injustice is not done to any other citizens of the province because of that type of instruction. That's all I have to say at this point.

Mr. Chairman: Mr. McMurtry, would you address yourself to Mr. Renwick's comments?

Hon. Mr. McMurtry: As I understand Mr. McLeod's recital of the facts, it would appear the police acted reasonably in the circumstances. If they had known Mr. Paris was not going to be at home but was going to be in Toronto during this period of time, it seems clear to me the arrest would have been affected prior to the Friday.

Mr. Renwick: If you want to persist, Mr. Chairman, I will find out where Mr. Paris was. I am simply pointing out that the police did not go to his home on the Tuesday evening; they did not go on Wednesday morning. Instead, they waited till 6:30 on Friday evening.

Hon. Mr. McMurtry: That's not what Mr. McLeod said.

Mr. Renwick: I'll find out where Mr. Paris was, if you want me to.

Mr. McLeod: They went three or four times a shift on the Wednesday and Thursday.

Mr. Renwick: That's what I want to check out: where Mr. Paris was at the particular times and why they couldn't have picked him up, why they insisted on picking him up on Friday evening and why he was held for 90 hours. That's all I want to know, Mr. Chairman.

Hon. Mr. McMurtry: Mr. McLeod has recited the efforts—

Mr. Renwick: If you think it's proper, then we just disagree. I'm not arguing that. All I'm saying is that to the extent I can influence procedures here—which is very minimal—I want to see the instructions of the chief judge, because I want to make some suggestions to avoid this happening to other citizens.

It may appear, Mr. Chairman, to be de minimis, in the legal jargon of the day, but

it is of immense consequence to me that a citizen not be picked up from his home on Friday evening and held until Tuesday afternoon without an opportunity to show cause why he should be released. That's all I'm saying.

If the justice of the peace was prohibited by instructions of the chief judge from holding a show-cause hearing in the jail at midnight on the Friday evening, I would like to know what the procedures are to ensure that in similar circumstances a show-cause hearing will be made available at the earliest possible moment and not at 2 p.m. on Tuesday. That's all I'm asking. If the Attorney General is not sensitive—

Hon. Mr. McMurtry: These personal attacks, Mr. Renwick—

Mr. Renwick: —to that detention of a citizen, then all I want to say is he and I differ profoundly on this question.

Hon. Mr. McMurtry: That is, as I say—

Mr. Chairman: Would you address yourself to the question?

Hon. Mr. McMurtry: If Mr. Renwick will address himself to the question. If he wants to indulge in making wild allegations that we're insensitive to the predicament of a citizen in these circumstances, I have to take strong personal objection to that.

Mr. McLeod has already indicated the efforts the police made in attending at his home during the week. Unfortunately, they were not informed—whether if they had been informed as to his whereabouts this might have been avoided, one can speculate. There seems to be some suggestion this would have been avoided if the police had known where he was; and that apparently was in Toronto during this period of time and not at his home.

The matter of delay in the bail hearing causes me concern. While I can understand the reasons for the chief judge's instructions not to hold an important hearing such as a bail hearing in the jail cell but in a courtroom in an open manner, I obviously would prefer to see a system where there was a bail court on the Saturday or on the Monday, and it would be desirable to have bail courts established on a more regular basis. There is no question about that; no quarrel about that.

Apparently Mr. Paris did have some legal advice. I'm advised it's the practice of the crown attorneys that if the lawyer had called the local crown attorney, in these circumstances the local crown attorney would have been able to have facilitated his release. I think it's unfortunate that having had access to legal advice—

Mrs. Campbell: If he did.

Hon. Mr. McMurtry: Which he did, according to Mr. Renwick.

Mr. Renwick: Mr. Wessenger went there on Saturday morning.

Hon. Mr. McMurtry: I can't speculate and I don't want to; it would be unfair to counsel who arrived. It's clear to me, from the practices made known to me, that if he had contacted the local crown attorney the local crown attorney could have facilitated his release.

The local crown attorney has said in these circumstances he would have consented to the release, particularly in view of the fact that there was not a bail court available until the Tuesday. Obviously, particularly with respect to a long weekend and what not, I would like to avoid this type of hiatus, this type of time period, because I do regard it as a serious matter.

Mr. Renwick: Thank you. I appreciate that.

Hon. Mr. McMurtry: I am told, and Mr. McLeod can expand on this as he has more intimate knowledge than I do of the day-to-day procedural matters, that in areas like Toronto the only day there isn't a bail court is on a Sunday. As I understand it, there's a bail court six days a week, so if this had happened in Toronto the person might have been kept in custody over the Sunday and that would be the extent of it.

Mrs. Campbell: No, on Saturday.

Hon. Mr. McMurtry: I'm sorry. He would have been out on Saturday. I'm saying if he had been brought in on Saturday night he could have been kept in.

Mr. Renwick: He could have been out on Saturday morning.

Hon. Mr. McMurtry: If it had happened in Toronto he would certainly have been out on Saturday morning; no question about it. I am advised by my director of crown attorneys that in areas outside Toronto where there aren't the same resources with respect to establishing a court, the practice is, and it's known in the community, the local crown attorney is available to facilitate releases in the appropriate cases.

This seems to me to be the type of case where a release would have been facilitated. It is known to the local bar in communities like Barrie that the crown staff will be available over the weekend to consent to a release in the appropriate circumstances.

Mrs. Campbell: Midnight?

Hon. Mr. McMurtry: Mr. McLeod could perhaps add to that.

Mr. McLeod: I could add to it that we use the terminology show cause with the onus being on the accused. Many cases are ones where the accused shows cause by way of the consent of the crown. This is a classic case where this would have happened and in fact did happen on the Tuesday.

Mr. Renwick: The guts of this, regardless of the speed with which it can be done, is what, in the absence of counsel—because in this case it turned out to be irrelevant; he wasn't released because of the intervention of counsel and whether counsel tried or not is not relevant to it; he was held in the jail—what does an accused person who has been detained in these circumstances do to get access to the crown when he's been faced with a justice of the peace who has remanded him?

Mr. McLeod: He does exactly what Mr. Paris did here. He goes to his lawyer.

Mr. Renwick: No.

Mr. McLeod: The minute he goes to his lawyer, then the police and the crown and the justice of the peace stop talking to him directly, they talk to his lawyer.

Mr. Renwick: Well, then, let's forget about the lawyer.

Mr. McLeod: You can't.

Mr. Renwick: Yes, you can forget about the lawyer.

Mrs. Campbell: Can Mr. McLeod clarify that last statement about stopping talking to him and talking to his lawyer, the crown among them?

Mr. McLeod: As a matter of general principle, yes.

Mrs. Campbell: I'm sorry, but it wasn't in this case.

Mr. McLeod: Obviously they talk to him in the sense that they say, "The justice of the peace is here," if his lawyer chooses not to come down to the cells, but as a matter of principle, once the man retains counsel, then the counsel becomes involved.

Mr. Renwick: There's nothing in it—

Mr. McLeod: I consider it quite inappropriate for the crown and police to enter into discussions with him about whether or not, or what the terms are going to be—

Mrs. Campbell: I thought you meant in this case.

Mr. Renwick: But the justice of the peace did not know anything about whether or not Mr. Paris had retained counsel at that time. All I'm saying is, would it be possible for a citizen in the situation of Mr. Paris to say to the justice of the peace, "I would like to get in touch with the crown attorney"?

Mr. McLeod: Certainly.

Mr. Renwick: How would that information be conveyed to a person in those circumstances at midnight so that he knows that's one of the options open to him? If the justice of the peace is precluded from dealing with it, surely the next thing is to give the person detained access to the person who has some authority to release him?

Mr. McLeod: Sorry, I don't mean to be picky again with terms. The role of the crown is to intercede in the sense of talking either to the accused directly when the accused doesn't have counsel, or talking to his counsel and attempting, in effect, to negotiate a consensual release order.

Mr. Renwick: Why couldn't that have taken place that night at midnight—that's all I want to know—or first thing on Saturday morning?

Mr. McLeod: First thing Saturday morning it would and, in my respectful view, should have taken place by Mr. Paris's lawyer phoning the crown attorney.

Mr. Renwick: Apparently that didn't. Let's talk about somebody without a lawyer on Saturday morning.

Mr. McLeod: All right. Then we're not talking about this case.

Mr. Renwick: All right. I'm talking about a citizen being detained. Let's leave the lawyer out of it. The person is detained. All I'm asking is, how does the detained person know that one of his options is to get in touch with the crown attorney?

Hon. Mr. McMurtry: If I may be permitted to answer this as one matter, through our legal aid system I think it's essential that we attempt, where reasonably possible, to give accused individuals in these circumstances accessibility to lawyers on the weekend. I think that is the way it should be done, because I think it's important that citizens have that help and that they are not placed in a position where they have to deal with the crown attorney, given their lack of training in this respect.

Mr. Renwick: I think that's all I'm saying. I'm satisfied now that the Solicitor General is prepared at least to review what those procedures are to see that this kind of situation is not duplicated outside of Metro. I agree that in Metro it would be unlikely to occur, but I would like to make certain that those procedures don't permit this kind

of duplication of detention for 90 hours before an opportunity is given to effect the release of a person.

I appreciate Mr. McLeod going to the trouble of getting us all the factual information about it.

[12:00]

Hon. Mr. McMurtry: Before you leave this, Mr. Renwick, and I don't necessarily want to get totally involved in this issue, but with regard to a statement you made at an earlier stage, I think during the Attorney General's estimates, that you as a member of parliament would have done precisely, or words to that effect, what Mr. Ziemba did in the circumstances, I just want to say, particularly in view of the very high regard with which you are held by a number of people associated with the administration of justice, that you should know that the allegation is, and I'm not making any judgement, that Mr. Ziemba was quite abusive to the justice of the peace. I'm not making any judgement of that, but that is the allegation that's contained in statements from the justice of the peace.

I don't want that justice of the peace, or anybody else associated with the administration of justice who is aware of these allegations and these statements, to have the impression that you would have behaved in a similar fashion. I just want to say that for the record. If you don't want—

Mr. Ziemba: A point of privilege: If you have evidence that I was abusive, put it on the table.

Mr. Chairman: Mr. Ziemba, would you repeat your point of privilege?

Mr. Ziemba: If you have evidence that I was abusive to the JP, put the evidence on the table. Let me see it.

Hon. Mr. McMurtry: We will. We will.

Mr. Warner: Wild allegations.

Hon. Mr. McMurtry: Would you identify these statements?

Mr. McLeod: There is a statement, Mr. Chairman, from the justice of the peace relating to his telephone conversation with Mr. Ziemba. Perhaps if I read the relevant part—

Mr. Chairman: I suggest that you read all of it if you are going to table it.

Mr. McLeod: "Mr. E. Ziemba telephoned me at my residence on Saturday, October 6, 1979, between 8 p.m. and 9 p.m. and identified himself. I knew him to be an MPP. I had my family home for Thanksgiving and we had just completed dinner. There was some commotion and therefore to remember the conversation is quite difficult.

"He asked me if I were E. J. Burton, justice of the peace. I acknowledged that I was. He then asked me if I was the justice of the peace who remanded Brando Paris into custody Friday evening and I indicated that I was. He then wanted to know why I had remanded him on such a minor charge. He then referred to a person in Toronto who had been released on bail on a serious charge. I am not sure, but I think it was the Judy Jordan case.

"I told him that the charge against Mr. Brando Paris was serious—that of mischief under the Criminal Code. He made reference to why I had not released Mr. Paris on bail Friday evening. I told him that the Barrie police at this point opposed bail as Mr. Paris was also charged with another criminal offence.

"He then asked me if I always took my instructions from the Barrie police. At this point I stated that as Mr. Paris was also charged with another criminal offence and the police opposed bail, I ordered Mr. Paris into the Barrie jail for a bail hearing on Tuesday at 2 p.m. He then stated that I had confirmed his suspicions that I was controlled (or a runner) for the police. I considered the remark very insulting and not called for from a member of parliament.

"He inquired if I could release persons on bail and I told him I could. He then asked me to reconsider releasing Mr. Paris on bail as otherwise he would be away from his family for the Thanksgiving weekend. I again stated that I was sorry but he would have to remain in custody until Tuesday at 2 p.m.

"When he referred to a minor charge of mischief, I inquired of him as to his occupation, thinking perhaps he might have been a lawyer. His reaction was that he was a full-time member of parliament and was surprised that I would ask such a question and did not tell me his occupation other than 'an MPP.'

"He then asked me for my home telephone number, which I gave him. Why he wanted it, I do not know. As I understand it, he did call me from the jail."

Mr. Ziemba: I didn't hear anything abusive there. Those are just the facts, Mr. Chairman.

Mr. Renwick: I just wanted to say that—

Hon. Mr. McMurtry: There's another statement—

Mr. Renwick: —no, just a moment—the question of what was said is a different mat-

ter. Mr. Ziemba is the one who answers to that.

My point was quite clear that in an identical situation I would have absolutely no hesitation of having tried to reach the justice of the peace to effect the release of Mr. Paris and I wanted to make that distinction. I want to make it very clear that this was a question relating to the liberty of the subject in a situation which had nothing to do with the judicial process with respect to his guilt or innocence.

I feel quite strongly that a member of the provincial parliament, let alone any citizen in a situation like that, would make some effort to get a person released. I emphasize again it is not in any sense involved in the judicial process of determining the guilt or innocence. That was the only point, because there's been some suggestion that my colleague acted improperly in calling the justice of the peace.

Hon. Mr. McMurtry: Just for the record, in view of the fact that it was said that I had made an allegation against Mr. Ziemba, he understandably wanted to have evidence of that allegation—Mr. Warner did. I think that's clear on the record. I have another statement from one of the jail guards, I believe, who was present during the conversation and he also recalls what I would describe as abusive conduct on the part of Mr. Ziemba.

Mr. Chairman: Excuse me, present during which conversation?

Hon. Mr. McMurtry: Present during the conversation, I'm sorry, with the JP.

Mr. McLeod: It relates to a conversation between the jail official and Mr. Ziemba at the jail.

Hon. Mr. McMurtry: Oh, the jail official. I'm sorry.

Mr. Chairman: I don't quite see how this is relevant to the topic under discussion.

Mr. Renwick: It's not, no.

Hon. Mr. McMurtry: I thought he overheard a conversation between the justice of the peace.

Mr. Chairman: Unless he was having Thanksgiving dinner with the justice of the peace, I don't see the relevance.

Mr. McLeod: I'm sorry, Mr. Chairman, the statement relates to this gentleman's presence at the jail at approximately 9 p.m. when Mr. Ziemba asked if he could phone Mr. Burton. That took place. Then he goes on to—if I may just have a minute; it's handwritten and there are parts of it that are hard to read. It then goes on to relate what this gentleman apparently overheard as part of the conversation between Mr. Ziemba and the justice of the peace.

Mrs. Campbell: Yes, that's relevant.

Hon. Mr. McMurtry: That's relevant.

Mr. McLeod: Should that be read?

Mr. Chairman: Go ahead.

Mr. McLeod: "On October 6, 1979, between the hours of 8:42 p.m. and 9:17 p.m., Mr. Ed Ziemba, MPP, High Park-Swansea, visited this jail. At approximately 9 p.m. he asked if he could phone the JP, Mr. E. J. Burton. Mr. Burton was phoned and then connected with Mr. Ziemba.

"Mr. Ziemba said words to the effect that, 'I am Ed Ziemba and I'm calling in concern to a Mr. Paris who is now in Barrie jail and as to why he was being held during the long weekend for a bail hearing. This is ridiculous on such a petty charge. Donald Stewart got bail in Toronto on a much more serious charge. I have confirmed my suspicions that you are nothing but a lackey for those Barrie PD goons.'

"His conversation was continually interjected with the word 'goons.' Throughout the conversation Mr. Ziemba was excited and at times quite abusive. His "—I'm sorry, there's a word I cannot read; it's been cut off by the photostating—"was not what one would expect from a member of the Legislative Assembly."

Mr. Ziemba: I don't know what one would expect from a member of the Legislative Assembly, but I'll stand by my actions.

Mrs. Campbell: I would like to address the Solicitor General on two points.

Mr. Chairman: I'm advised that the Solicitor General would enjoy having you address him on those points. However, we have another problem with the Solicitor General's timetable. Perhaps the Solicitor General can address the committee on that.

Hon. Mr. McMurtry: Yes, there's a very critical matter before the Supreme Court of Ontario related to what is stated as an illegal strike. The matter was adjourned until two o'clock so counsel for the Ministry of the Attorney General could obtain instructions from the Attorney General in relation to this hearing. Counsel has been waiting for me since 11.30 upstairs.

I didn't want to interject during the course of Mr. McLeod's statement because the chairman had said he did not want Mr. McLeod's review of the facts to be interrupted. Following the request of the chairman in that regard, I did not interrupt him. I think, given the critical nature of this matter and the obvious

public importance, I would simply like to suggest we adjourn perhaps until 1:30.

Mr. Chairman: I'd like to ask Mrs. Campbell a question concerning her questions. Are they matters about which you would like Mr. McLeod present while addressing your questions to the Attorney General? If so, I can instruct him to come back at 1:30.

Mrs. Campbell: No, they had to do with policy. I very much appreciate Mr. McLeod getting this material, but they did relate to two matters of policy. I think only the Solicitor General could appropriately answer policy questions.

The committee recessed at 12:11 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Solicitor General

Government Publications



Third Session, 31st Parliament
Wednesday, December 5, 1979
Afternoon Sitting

Speaker: Honourable John E. Stokes
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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee resumed at 1:34 p.m. in room 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL
(continued)

On vote 1701, ministry administration program:

Mr. Acting Chairman: I'll recognize a quorum.

Mr. Philip: Mr. Solicitor General, I have a matter that I want to bring up with you that is of concern to the transportation industry and is of concern to me as transportation critic for my party and as a member of the select committee on the highway transportation of goods.

I'm concerned particularly about the connection between the operations of the Ontario Provincial Police or your ministry and that of the Ministry of Transportation and Communications in the enforcement of the Public Commercial Vehicles Act and in the inspection of trucks for overweights and other transportation regulations.

In particular I would like to give you a specific case that does not relate to a commercial vehicle but I think illustrates the kinds of problems that people have when they go to the OPP or indeed when they go to the Ministry of Transportation and Communications with a complaint about some alleged illegality.

Since the particular employee has wished that I be free to use his name and indeed says that he's willing to stand behind this information and to make it public and file it, I'm at liberty to read into the record exactly what he told me.

Mr. George Ladds is a constituent of mine. He was an employee for a company called Acadian Platers whose barrel division plants are located at 21 Meteor Drive in Rexdale.

Mr. Ladds claims he has been constantly forced to overload his vehicle. He has given us a record of the loads and perhaps the clerk can distribute it to members of the committee.

Mr. Acting Chairman: Are there copies there?

Mrs. Campbell: There'd better be.

Mr. Philip: Yes, there are copies here. I arranged for copies after asking the Attorney General to make sure that exhibits are copied.

He is constantly being forced to overload. He claims the loads went from Mercury Drive to the Automotive Hardware at 55 Brown's Line. He was driving a GMC General 1978 truck. It was licensed at the time of this documentation for only 36,740 pounds. The enclosed record, which I have provided to the committee, shows that he was constantly driving overloaded. What that shows, and it's in his handwriting, is the number of pounds that he was carrying. You can see that he was overloaded constantly on these dates.

He went to the Ministry of Transportation and Communications and it told him to contact the Ontario Provincial Police. He protested, but he had taken the route of going to the shipper and insisting that he was licensed to carry only a certain number of pounds, that overloading was dangerous and, unfortunately, even though he and other drivers in this company protested, the shipper always insisted that he take the load the shipper wanted him to take. This was sanctioned by one of the owners, Mr. John Buchanan, although he claims that other owners were more sympathetic to his complaints.

He went to an officer of the OPP and provided him with this list. The OPP officer read it, shook his head and said, "We have to catch him on the run." Catching this kind of load on the run might be a rather dangerous thing if you took it literally. On August 21 you will note that he was 31,777 pounds overweight. I suggest to the minister that is dangerous, that he has talked a great deal about the need for greater enforcement in order to have highway safety, and that it isn't just automobile drivers who need to be caught in wrongdoings. Those companies that overload certainly need to be brought in and charged.

The Ministry of Transportation and Communications has taken a step in the right direction in terms of the public vehicle carriers by introducing legislation, which was part of the recommendations that both I and

Mr. Cunningham, the Liberal critic, had advocated in the select committee on the highway transportation of goods, that shippers be charged and fined the same as companies are. In this case this fellow is a private company carrying his own goods.

I guess my question is just simply this: I've put on the record the concerns about this particular company. No doubt you'll probably be watching the vehicles of this company. My concern is this: What is the integration between the Ministry of Transportation and Communications and the OPP in seeing the laws we have passed in this province are enforced? How does one go and get this kind of shuffle? He goes to the Ministry of Transportation and Communications. They say to go to the OPP. The OPP surely could at least have said, "This fellow will have some bills of lading or some shipping documents that we can check out so we should be able to find out exactly what it was he was shipping and see if he's constantly shipping overweight and we can do something about it."

Let me give you a record of this man's work, according to his testimony to me when I went to see him at his home on Saturday. He said he started work in February 1977. He never had a complaint. The company indeed used his name for insurance purposes, as I believe the insurance company asked for a recommendation of some of its better drivers. He never had a road accident. There was a slight accident in the company parking lot where the company had not installed the required convex mirror in his cab and a car, which was parked 12 feet over the no-parking line in the lot, was crushed, but he's never had a highway accident.

As a result of his taking all of this information he was constantly harassed, in his words, by his supervisors. Finally he quit on November 22 and found immediate employment with another company. He therefore felt he was at liberty to come forward and complain to me since his job was no longer in jeopardy.

Another interesting fact was that his increased interest in safety came when he was elected as shop steward. Up until that time he's had no problems with the company.

Those are some of the facts related to a particular case. I'm not only interested in this particular case, but in the whole connection of policing between your ministry and the Ministry of Transportation and Communications.

Hon. Mr. McMurtry: We'll be interested in obtaining further information to be sure as to just what his route was. I assume from what you've said it would include provincial highways where the OPP would have some responsibility.

Mr. Philip: He wasn't exactly sure who it was that he spoke to at the OPP, and that, of course, makes it more difficult for us to trace the thing.

Hon. Mr. McMurtry: He traversed provincial highways where the OPP did have jurisdiction?

Mr. Philip: Yes, I would think so. If he was on Meteor Drive, that would be close to highway 27. If he were going to Brown's Line, I'd imagine that he would use highway 27 and the QEW. When I get out to Mississauga I get lost.

Hon. Mr. McMurtry: It could be within the Peel region jurisdiction. Be that as it may, it would be helpful if we knew that.

As I understand it, there's no clear line of demarcation between the responsibilities of the OPP and the enforcement officers who are employed by the Ministry of Transportation and Communications. The OPP do have a responsibility during their highway patrols to stop vehicles they have reason to believe are overloaded. They check bills of lading and what not, but I'm told occasionally bills of lading are not accurate. I guess it results in a judgement call as to whether they should take the vehicle in question to a weigh scale.

Because of the specialized nature of this law enforcement, the MTC have a number of people patrolling as well who are a little more likely to be able to detect overweight vehicles. But as I understand it, there is no clear line of demarcation.

[1:45]

If this person had attended on an OPP office, it would be helpful if we could find out just where he attended—I mean he should have been given more assistance than what he apparently received. The accidents that we believe are caused by overloading are a matter of great concern. The vehicle may be within the speed limit, but if it is overloaded they do cause accidents, sometimes very serious accidents.

I have said we would like to have more OPP officers on the highway. I can't tell you the number of employees of MTC involved in this type of law enforcement. Perhaps we could find this out. I certainly will get a copy of the transcript of your submission, Mr. Philip, and review it and pass it on to both the OPP and MTC.

Mr. Philip: I think it is necessary for the person who is on the line, the OPP officer, to understand what it is the MTC is about and how to enforce it. The greatest complaint

I get from the legitimate trucking industry is that the OPP sometimes have done their job well, in their view, in terms of checking on loads and that kind of thing. However the industry feels they often are very remiss when they do stop somebody for some offence in checking whether or not he has the proper operating authority.

I would like to move along from this specific case to a more general policy area. I have had numerous comments from the trucking industry during this Mississauga business, and it seems to me that while you have shown concern about this incident, there are people travelling the roads who are gipsy operators carrying dangerous chemicals. That doesn't mean that a legitimate operator may not have safe equipment and so forth. I think the overwhelming evidence seems to be that at least the legitimate operator, the fellow who has gone to the trouble of obtaining a PCV licence, of showing that he has enough equity in his company to run it properly and to deliver the service, is less likely to be irresponsible and to have unsafe equipment than those who are the so-called gipsies or the non-authorized carriers. I would hope perhaps you can review, with the Ministry of Transportation and Communications, ways in which you can work more closely together to get some of these people off the highways—including many of the legitimate carriers who may disobey the law.

Hon. Mr. McMurtry: I will be very happy to do that. We established the new Highway Traffic Safety Council in the spring to make recommendations for more effective law enforcement. It is chaired by Deputy Commissioner Erskine of the OPP. MTC of course is represented on it.

I understand your concerns. As a matter of fact I met as recently as last night with members of the trucking industry at a motor vehicle safety association and they brought similar concerns to me once again. We will pursue that, Mr. Philip.

Mr. Philip: Thank you. Thank you, Mr. Chairman.

Mr. Acting Chairman: Thank you, Mr. Philip. Mrs. Campbell, you had yielded the floor to Mr. Philip so—

Mrs. Campbell: Thank you very much.

Mr. Philip: I am thankful to Mrs. Campbell for doing so.

Mrs. Campbell: I am back on a supplementary to the discussions we had this morning with reference to the Radio Shack matter.

Mr. Acting Chairman: On a point of order, Mrs. Campbell, could I ask Mr. Young to take the chair please?

Mrs. Campbell: We Liberals really have problems getting the floor in this committee. If it isn't the Attorney General, it is the NDP.

It seems to me that coming out of the material we heard this morning, both the Attorney General and the Solicitor General would have some grave concerns. First of all I think that when a directive is given, there should be some appreciation of what flows from such a directive and that provisions should be made. I do understand why the directive was given. What I do not understand is why with a directive like that there is no followthrough to ensure there is ample opportunity within a matter of hours for formal hearing. I don't think we can expect that any of the offices will be operating around the clock but I certainly am of the opinion that no one should be left in that state for that period of time in an offence of this kind.

It reminds me very much of an administrative directive that came out into the courts when I was there. It read, "Public Works is going to pave the parking lot. We don't know when." It was about as useful as that. As a result of any lack of followthrough you had the interesting spectacle of judges in robes running out to put dimes in the meters. It didn't do much for the administration of justice system. This is really very much following that same sort of lack of a comprehensive overview of what happens.

It also points out what I have been really concerned about for a long time, and that is the inequality or unevenness of justice across the province. The fact that it is unlikely this state of affairs would exist in Toronto does not leave me very happy. Although Toronto might have the sort of service which would preclude this incident, hopefully, I'm concerned that in other parts of Ontario people are not treated equally or evenly in the justice system. I am sure the Attorney General would be very concerned about that unevenness too.

The JP in this case came under criticism when it really wasn't his own fault, from what we heard today. It seems to me too the Attorney General has always been very jealous in guarding the reputation of those engaged in the justice system. I would have thought a justice of the peace would not have been open to the kind of criticism that occurred here and that this, again, should have been looked at when we get these sorts of directives.

I really am desperately concerned about the fact that somebody can be faced with this in a place with which he is presumably not too familiar and not having any idea at all where to turn and what to do.

I grant that one has to express the desire to be released before one gets to the next stage. But when I think of what happened here—a justice of the peace is called out in the late or early hours, depending on your point of view—to deal with a matter and the question is put, do you want to be released?—I wonder how many people would say no. Surely that is not sufficient to put the matter clearly before anyone in those circumstances. I have never yet in my experience heard of anybody who didn't want to be released. So the whole matter, it seems to me, has to be very carefully reviewed to ensure—and I share Mr. Renwick's very real concerns—that this can happen in other parts of Ontario for very similar reasons.

The third matter that bothers me is that if a member of the Legislature is to be criticized for a procedure it seems to me there ought to be some very clear statements, presumably from those charged with responsibility, as to what, at least in his opinion, one should do in these circumstances. Initially my view was that if I had been in those same circumstances I would have tried to find a crown attorney. But on sober second thought, if I had called a crown attorney and he had refused, I can't think the conversation would have ended there. I am not sure at what point you are appearing to exert some sort of influence in the process, and that bothers me.

I think the Attorney General ought not just condemn, but bring forward some very constructive suggestions, if nothing stronger, on this point. Then those of us in the Legislature may understand that very fine line between trying to be effective as members—as many ombudsmen, if you like—and that point at which you may be deemed to be trying to influence court procedures. I think it is a very difficult and a very fine line.

So after touching on those three aspects, I really would like some response from the Attorney General.

Hon. Mr. McMurtry: First it would be desirable, if possible, to have a bail court at least sitting six days a week in every area of the province. That presents certain practical problems. But as I indicated this morning, Mrs. Campbell, the crown attorneys in areas where there is not a bail court sitting six days a week are, from what I have been able to ascertain, very sensitive in assisting accused individuals to be released—in cases where there should be a release.

How sensitive they are about this I have no precise measurement except to say that I cannot recall hearing of a similar case in the last several years. That does not mean to say they have not occurred but these matters usually come to my attention—not always. This is in no way to suggest that I was not concerned about the matter involving Brando Paris. But the fact that similar cases have not been brought to my attention may be some corroboration of the fact that I think the crown attorneys are sensitive to this problem and do assist in seeking the release of individuals where it's not clearly in the public interest to retain them.

[2:00]

In these particular circumstances it's unfortunate with the lawyer who attended, who may not have been familiar with the local situation and there may be very good reason for it, that we had the combination of circumstances where the accused had access to a lawyer at a fairly early opportunity and yet that access doesn't seem to have served any useful purpose. My own view is that access to legal counsel is crucial, but there are no guarantees that legal counsel will always give the appropriate advice or the best advice.

Mrs. Campbell: Or can.

Hon. Mr. McMurtry: Or can.

Mrs. Campbell: They may not be able to affect the situation.

Hon. Mr. McMurtry: So we have a very unhappy combination of circumstances in the Brando Paris case where you have the police attempting to effect his arrest during the course of the week, but really through circumstances—well, just put it this way, an unusual combination of circumstances—he was not available until the Friday evening, as we have heard.

We have the further unfortunate fact that Mr. Paris had access to a lawyer the next morning but—

Mrs. Campbell: When?

Hon. Mr. McMurtry: On the Saturday morning.

Mrs. Campbell: Oh, he came Saturday.

Hon. Mr. McMurtry: Yes, I think he had a call Friday night.

Mr. Hilton: Through a phone call.

Hon. Mr. McMurtry: The phone call was Friday night, and Saturday morning the lawyer attended but we don't know what the lawyer's advice was. Obviously there was no

contact with the local crown attorney, who advised us that in those circumstances he would have assisted in securing the release.

Third, there is the unhappy fact that we don't have bail courts sitting on Saturday morning in Barrie apparently. I can indicate that certainly where there are long weekends such as that, I have tended to discuss with the chief judge what can be done to provide some form of court hearing rather than to allow the situation where Saturday, Sunday and Monday go by without a bail hearing. That, of course, is of concern to me and we will see what we can do to improve the procedures.

I don't think anybody is criticizing the JP in this case because he was acting—

Mrs. Campbell: I think he has been.

Hon. Mr. McMurtry: I don't know who has criticized him. I think one of our colleagues had some criticism for him but I don't see the criticism going beyond that because he was acting clearly under the instructions of the chief judge, as I understand it.

The guidelines that might be given by an attorney general, for example, in relation to the role of a member of the provincial legislature in these circumstances, of course I don't think can go much beyond what I have already said: that I think a member of the provincial Legislature should not be calling a justice of the peace. I only repeat what I said earlier. I regret that Mr. Renwick does not agree with that. We obviously have some disagreement in that context.

I read certain correspondence into the record between the Premier (Mr. Davis) and the leader of the official opposition (Mr. S. Smith) and the leader of the New Democratic Party (Mr. Cassidy), which suggested the matter of guidelines being discussed. I think the procedural affairs committee was suggested by the Premier, although I agree with you, Mrs. Campbell, that perhaps the justice committee might be a more appropriate forum. The leader of your party acceded to that suggestion and thought it was a good idea. Unfortunately Mr. Cassidy did not feel it was necessary. I think he may have said something about the individual member of parliament using his or her own good judgement in these circumstances and he didn't think it was necessary for any guidelines.

I agree with Mr. Cassidy that good judgement is generally the soundest guide. I repeat what I said before: I think this is a matter that should be dealt with, preferably by the justice committee or the procedural affairs committee. I cannot agree that it is appropriate for a member of the Legislature to be calling a judicial official, as a justice of the peace is.

A distinction must clearly be drawn between a telephone call of an MPP to a crown attorney in these circumstances. I see nothing wrong with a member of parliament calling a crown attorney in these circumstances—not in every circumstance, but in this particular case I see nothing wrong with it at all. I think one must again make a judgement as to the difference between these circumstances where you have somebody in custody and you're trying to expedite the process so this person can have a hearing. There may obviously be some difference between a phone call from a member of the Legislature to a crown attorney who is about to go into court to prosecute a case. I put the two phone calls in different contexts.

Again, this is where I think individual judgement should be the best guide. In this particular case you're just trying to expedite the process to give this person a hearing. In another context the telephone call may be interpreted as, or even give the perception of, an attempt to influence the outcome of a trial. I see the two situations in very different lights.

Very briefly, what I'm saying is that a telephone call from a member of the provincial parliament to a crown attorney in certain circumstances would be quite appropriate. If it's dealing with the merits of a hearing before the court as opposed to expediting the hearing, I think we have to draw the distinction between expediting the hearing and attempting to influence the outcome of the hearing or even creating that perception.

With respect to the role of the member of the provincial Legislature in the latter circumstances, it would be much better to write a letter to the crown attorney or to the defence counsel and ask that that letter be tabled in court. For example, if it were a matter relating to what the member of the Legislature felt to be the good character of the accused. That's one illustration.

I realize that these distinctions are not always easy to draw. I understand that they're perhaps more difficult for individuals who have not been exposed to the administration of justice as some lawyers have. I still reiterate what I said a few moments ago, that I would hope our friends in the New Democratic Party would consider this matter in their own caucus, this issue of

what communication, if any, could be made between a member of the Legislature and the officials involved in the administration of justice.

I would invite them to reconsider the position taken earlier by their leader, having the benefit of subsequent events, to determine whether this wouldn't be a good process for this particular committee to engage in.

Mrs. Campbell: I appreciate what has been said, but it seems to me that there are two ways, in cases of this kind, to obviate the necessity of any sort of intervention. One, of course, is to have appropriate bail hearings scheduled. At a minimum it seems to me that in these circumstances the accused should be given information as to the availability of the crown.

If the person is, let's say, from Toronto and finds himself in some part of Ontario with which he is unfamiliar, and if he calls counsel in Toronto, who may never have been there either and doesn't know how the matter proceeds in such a place, surely it would be almost mandatory that the accused be given all the available information as to the sensitivity of the crown. At 12 midnight on a Friday night I don't think this gentleman found anybody to be very sensitive, with the greatest respect.

At a minimum, would it be appropriate for the Attorney General to discuss with the chief judge the possibility of some kind of further instructions which would clarify what information would be given and what kind of question would be asked? I can't think of anything more infuriating to a justice of the peace than to be tramping down to a jail at midnight to ask the question, "Do you want to be released?" I would think he could have stayed home and known that was probably the answer he was going to get. It just doesn't make too much common sense, apart from any administration of justice.

Would the Attorney General in such circumstances be prepared to discuss that matter with the chief judge with a view, at least where we have these sensitive crowns, to having them making their sensitivity known to those who are caught in this position?

Hon. Mr. McMurtry: Yes, I'll be happy to review this matter with the chief judge.

Mrs. Campbell: I had one other matter.

Mr. Ziemba: I wonder if I can have a brief supplementary, Mrs. Campbell, to your question. I must admit, Mr. Minister, I learned something here this morning. It would have been more appropriate to phone the crown attorney than the JP. I recall the guards at the jail calling the JP and then offering to phone the crown attorney for me, but I recalled an earlier debate when Mr. Kerr was criticized for doing just that. I made it a point to pass on that one. In fact, they were perhaps right; I should have phoned and talked to the crown attorney.

I must admit that I was very upset that night because I'd learned about the circumstances. I think the Attorney General would be too if he had been in my place. We went up with $1,000 cash. We thought that should be enough to spring him on the charge.

You talk about writing a letter. I thought of phoning you, by the way, but it was late Saturday night. I didn't have your home phone number. I must get it, because that's what came out of the Kerr hearing.

Mrs. Campbell: You were supposed to take it up with the Attorney General and he should be available 24 hours a day.

Mr. Ziemba: Writing a letter wouldn't have helped me, as you suggest.

Mr. Lupusella: His phone number is not listed.

Mr. Ziemba: Let me tell you just two things that sort of biased me, perhaps, in this instance. The justice of the peace in Barrie has not been known to be especially sympathetic to the Radio Shack picketers. On five occasions they have tried to lay charges against the police. In every instance he refused to accept their information. To date, they have not been able to lay one charge against the police. They had some assault charges they wanted to lay and two hit-and-run charges they wanted to lay. In all cases the justice of the peace examined the information and wouldn't accept it. That kind of told me that he wasn't too sympathetic to our side of the story.

The second thing is, Brando is an immigrant. He doesn't speak English that well. I had the impression that somehow he wasn't communicating his concerns as well as someone might to the authorities.

[2:15]

I was horrified when the JP told me he was taking his instructions from the police —not from the chief justice, as you have said now, but from the police. It was an assumption that I came to quite logically. Here they are, refusing to accept charges when the picketers are trying to lay them; then on the other hand waiting until Friday night when this mischief apparently took place on a Monday. You can understand my feelings on that night. I think I was quite temperate in my approach to the JP, I really do.

Mr. Minister, if you're talking to the chief justice—I wish I were a lawyer and I could get into the Renwick type of debate—but why can't you just ask him to be sensible? It's a question of common sense. When a JP is faced with an offender who is charged with a minor offence and there's a long weekend coming up and he's not a danger to himself or to others, then why keep the guy in jail? It's costing us $50 a day to keep these people in jail. You can't build new jails fast enough. Every time you build one it's jammed to double capacity. Margaret knows; I see her nodding her head. Yet here you have this attitude that somehow all this red tape has to be followed and this guy has to okay that. What nonsense. Why couldn't the JP have said, "This is a phoney charge. He's charged with scratching a car. Let him go; he's not going to run away. He owns his own house. He's got a good job. He's got a wife and family."

The kids were just terrorized. They didn't know where dad had gone, and the mother couldn't explain to them where the father was. He was at the point of tears when I met him; a great, big strapping steelworker. But when I met him in jail that's how he approached me. He said, "Do whatever you can to get me out of here." He was really upset. That's a horrible jail; it's just like our Don Jail.

So you can see what I was facing that night. If I had known I could have called a crown, I would have called a crown. I would have called anyone. We watch too much American television because we always think of JPs as the bondsmen. We just have to go up and give them our money and they let the guy go.

That was my mistake for having assumed that. But I think you have a job to do in talking to this chief justice, and convince him that we shouldn't be keeping people in prison unnecessarily.

Hon. Mr. McMurtry: Mr. Ziemba, I can't agree with your statement that your behaviour and language was temperate. I think I have already made my views known in that respect.

Mr. Ziemba: Under the circumstances.

Hon. Mr. McMurtry: With respect to the role of the chief judge, I thought Mr. McLeod explained that fairly well this morning. I realize these matters tend to become rather technical and what we, as lawyers, may think is a clear explanation to the average person is anything but. But let me try to put it in the appropriate context.

First of all, under the criminal law of this country—the Criminal Code that applies in matters such as this, which is an act of the federal Parliament—the police have the right where a person is out on release to request a show-cause hearing. Under the law of the land the police have that right to insist on a show-cause hearing because the onus is on the accused to demonstrate that he should be released.

While none of us feels comfortable at all about the fact that Mr. Paris had to spend Thanksgiving weekend in jail, I think it's important to understand the legal framework. There's been enormous criticism of the bail reform act—the suggestion that people were being repeatedly released on bail and that other crimes were being committed. Yet they continued to be released. So Parliament in its wisdom a few years ago—I can't recall the precise date—amended that act to say if you are already out on bail the onus shifts if it's an indictable offence, so that the police can request a show-cause hearing. Both the JP and the chief judge are bound by that law. The police have the right to ask for a hearing and there's nothing the JP or the chief judge can do—as I understand the law—to prevent that hearing from taking place.

The next issue becomes: Where and how is the hearing going to take place? Mr. McLeod said this morning that at one time these hearings did take place in the jailhouse and the defence bar quite understandably complained about that because they felt the average accused was at a disadvantage. The accused could be without counsel in many cases, and the justice of the peace perhaps would say he was required by law to have a hearing. "That is the law of the land, so let's have the hearing right now." In many cases, of course, the accused was not properly represented and they were ordered to remain in detention until at least the next time in court when perhaps they would get counsel and be released.

So I think it's important to appreciate that the JP and the chief judge have to function within a legal framework. You may believe the law of the land, given your view of the circumstances, is unreasonable, but it is the law of the land and until Parliament changes it, the JP must abide by it.

Mr. Lupusella: It's up to you to change it.

Hon. Mr. McMurtry: It's up to the federal Parliament to change it. I'm not suggesting the law should be changed, because I think the law is generally fair. But the administration can be a problem. This is what we are attempting to address ourselves to. I have already undertaken with Mrs. Campbell to

review these procedures with the chief judge and with the director of crown attorneys.

As I see the problem, it's one of accessibility to proper legal assistance. I appreciate the problem that somebody is faced with when somebody is in jail—$1,000 cash for bail and not being familiar with the legal procedures. The jail guards apparently suggested that you phone the crown attorney.

Mr. Ziemba: First the JP and then the crown attorney.

Hon. Mr. McMurtry: Oh, I misunderstood you.

Mr. Ziemba: They called the JP for me; then they offered to call the crown attorney.

Hon. Mr. McMurtry: They offered to call the crown attorney. I see.

Mrs. Campbell: He got scared.

Hon. Mr. McMurtry: We've accomplished a great deal in this province over the last 11 or 12 years, since the legal aid plan went into effect—in providing accessibility to legal counsel, to duty counsel, and everything else. But we have not yet reached any level of perfection; we can always improve our procedures to see that accused persons in those circumstances have accessibility to the right kind of legal advice. And we will seek to improve these procedures.

Mrs. Campbell: Mr. Chairman, I would just like to make it clear that from my point of view, with respect, I do disagree with the Attorney General even on the call to the crown.

If it were simply a matter of seeking answers, if it were a matter of a simple request for him to exercise his discretion, my problem would be that if he refused, I don't think it would stop there in the conversation. At that point it seems to me you are once again in the position of influencing an official in the system of justice. Perhaps I'm too narrow in my point of view, but I have a great concern for any attempt, particularly by a person in this Legislature, even to give the appearance of attempting to influence a decision. And the decision is still a crown decision.

So I don't agree with the Attorney General. I don't disagree on the phone call, if one wanted to phone; but I know, speaking for myself, if he said no, it wouldn't stop there. That's the point at which you do become a person trying to influence the crown in the course of his duty. I would rather see the direction given—if we can't get to proper bail hearings across this province—that the accused understand he has the opportunity to appeal to the crown in those cases himself—or that his lawyer may do so. The accused should also understand that he has the right to have counsel for that purpose. I think it would then relieve me and a whole lot of other people from the obviously bad position of interfering on one hand, and on the other, refusing to interfere when you're very much concerned about a constituent.

For that reason I believe the Attorney General has it within his power and his function to take the steps that are necessary so that there isn't a need for that kind of pressure on any crown law officer. So I am afraid I'm narrower than you are, Mr. Attorney General.

Mr. Acting Chairman: Mrs. Campbell, do you have another matter that you want to talk to?

Mrs. Campbell: Yes.

Mr. Rotenberg: Could I comment on that matter?

Mrs. Campbell has raised a point, I think we have to distinguish private members from the Attorney General or cabinet ministers. We sometimes will call ComSoc or we'll call the Ministry of Transportation and Communications or we'll call OHIP and so on—

Mrs. Campbell: Sometimes we get outraged too.

Mr. Rotenberg: Sometimes we do. We call these ministries and it seems quite in order, acting not as a lawyer but almost in the Ombudsman's function as a member of this Legislature. We will call various people to, in effect, put before the decision-maker of whatever department of government a case for a constituent. We may feel that somehow he's bottled up in red tape and if only the person who makes the decisions could understand the case maybe we'd get a favourable decision for a constituent at least.

I understand what Mrs. Campbell is saying, but there is some problem in my mind when you have a person who has a problem with the crown attorney, which I say is much different from a judge. A crown attorney is also an employee of this government in some way. In the case of a bail hearing or something like that when a constituent has a problem, really why is that so different from a private member acting almost as an unpaid solicitor for the accused or the person in trouble? His lawyer certainly can do this. Why is it so different for us, say, to call a crown attorney to put a case before them as we put it before someone at OHC or someone at OHIP?

It would be different for a member of the cabinet, for a solicitor general or for an attorney general or that sort of thing. Not being a lawyer, I may possibly look at it a little differ-

ently from Mrs. Campbell. I realize there is a difference and I realize what Mrs. Campbell's saying and yet I have a conflict in my mind. I can see a situation where a constituent could come to me and say, "I have a problem. I don't know where to turn and I don't know what to do." Do we have to say to him, "You have to go down to legal aid and get a lawyer"? Can't we say to him, "Yes, maybe I can help you."

I understand what Mrs. Campbell is saying and yet I'm not sure if I can totally accept it. If when a private member of the Legislature—certainly an opposition member would be even more different—calls a crown attorney, is that really the legislative function interfering with the judicial function? I'm not too sure of that and I really have a conflict in my mind. Can you elaborate a little bit? Maybe the Attorney General can help me somewhat as to why this should be different from calling some other person—

[2:30]

Mrs. Campbell: If you want me to elaborate on it from my point of view, I will tell you in precise terms that the crown attorney, even in a case of this kind, has to exercise a judgemental function as to whether or not he is of the opinion that this is a proper case for him to consent, virtually.

As I say, if I could see myself calling a crown attorney and saying, "These are the circumstances. Would you be inclined to support the release of this person?" and it ended there, I wouldn't have a problem. But if the crown started giving me some hassle about why he shouldn't, I know that I would enter into further discussion in the attempt to influence him to change that decision.

To me, justice has to be above any sort of influence by particularly people like us, who can have an effect on the whole justice system. That's my problem.

I know that in Toronto if I had a matter that concerned me I would call Peter Rickaby to ask him to talk to a crown about getting information. I would not personally go directly to any crown involved in a matter before the courts. Perhaps I carry it too far but that's my view.

Mr. Rotenberg: I can understand your view, Mrs. Campbell. I'm just wondering—

Mr. Acting Chairman: This matter has gone on a long time now. I wonder if the minister would like to comment and then we can go on to the next item that Mrs. Campbell has.

Hon. Mr. McMurtry: It's a very difficult area and I think Mrs. Campbell and I agree to a large extent, although obviously not totally. In certain circumstances, such as a bail problem in Barrie, I would see nothing wrong with a member of the Legislature making appropriate representations to the crown attorney. But the administration of justice is obviously a very sensitive area of society. I guess we're into a bit of a Caesar's wife aspect or character. Again it depends on the circumstances.

Take a young assistant crown attorney, and not necessarily a young one. As the Attorney General I can say that I personally regard a member of this Legislature as a person of some considerable importance in the framework of Ontario society. As to the perception that that person may be using his or her position of "considerable importance" to influence the course of the administration of justice in any improper way just by reason of the position—as opposed to volunteering their views to the court, for example, as to the good conduct of an individual who may be before the court for sentence—there are no hard-and-fast rules to be applied, which makes the task a little more difficult.

For example, there are obviously some members of the Legislature who are practising lawyers who are appearing in the criminal courts of this province for their clients. They are making very vigorous representations to the crown in their capacity as lawyers. It may be in relation to the crown attorney accepting a plea of guilty to a lesser charge or something of that nature. Obviously the whole area becomes a little fuzzier.

Mrs. Campbell: They're officers of the court.

Hon. Mr. McMurtry: But they're officers of the court, yes. It may be difficult for Mr. Rotenberg to say, "Maybe one of our colleagues who is a lawyer can approach a crown attorney as an officer of the court," as you say, Mrs. Campbell, "whereas I, as a member of the Legislature and not a lawyer, cannot." I can understand the difficulty.

Mr. Rotenberg: I would take it one step further. I appreciate what's being said. One of the things Mrs. Campbell said interests me. She said she wouldn't call the crown attorney in the case directly but she'd call Mr. Rickaby. Isn't he the chief crown attorney? It seems to me, Mr. Attorney General or Mr. Solicitor General, whichever capacity you're operating in today—

Hon. Mr. McMurtry: I'm not sure.

Mr. Rotenberg: —there should be a channel by which a lawyer who's a member of the Legislature can help those who are private members but are not lawyers. Maybe the channel should be indirect.

Hon. Mr. McMurtry: I think it should. I would like to have this matter discussed. I think before you came in here I was mentioning that it was my personal desire that this matter be the subject of some special consideration by this committee. I agree with what you're going to say with respect to some formalized line of communication.

For example, as the Attorney General I can't think that I've ever called an assistant crown attorney directly about a case in the more than four years that I've served in this position. Invariably I will pick up the phone and speak to perhaps the crown attorney for the area or maybe a deputy crown attorney in the judicial district of York where we have deputy crown attorneys. I can't recall ever phoning or communicating directly with an assistant crown attorney simply because, given the sensitivity of our role, I want to see that there be a pretty formalized line of communication, generally speaking.

Mr. Rotenberg: I would feel much more comfortable calling indirectly rather than directly, but I would like, if the occasion arises, to have some form of communication as the member of the Legislature on behalf of a constituent. The average person out there can't really distinguish among the arms and branches and levels of government. I'm there in my constituency office and he's got a problem with whatever level of government.

Mrs. Campbell: Wanting you to fix a ticket or something.

Mr. Rotenberg: They come and talk to me about it. I really want to have a channel, and I'm pleased to hear that the Attorney General will try to get some sort of a channel for us. I would very much rather not go directly to the person. If there's a police matter, I'd rather not call the cop on the beat who's involved; I'd call his senior officer or his deputy chief or someone who could intervene. I appreciate that and I wait to hear from you.

Mrs. Campbell: The matter I wanted to raise, I raised in the Attorney General's estimates. The reason I wanted to put it in here is because it seems to me that again to relegate it to the police vote would not get the full thrust of the Attorney General position overview. Of course, it's with reference to the question I put on the security branch of the special services division of the OPP.

The Attorney General, as I recall, in those estimates stated that he was not aware that this special branch was or had, perhaps more appropriately, taken on the role of investigating subversive political groups—if I've got the thing in its right context; I think it's subversive political groups—and that he would have some concern if this were a function of the OPP.

I have now given some additional information, sketchy as it may be, to indicate that at least in the past it has been an acknowledged function, as I understand it, of the OPP.

Hon. Mr. McMurtry: Certainly if subversive groups are involved in criminal activity, the OPP has a responsibility.

Mrs. Campbell: I understand that, but the political groups are what I was getting to. I had asked if we really have the protection in this province that I think we would like to see, whether or not we might be faced at some time with a situation similar to that in Quebec.

I am very much aware of the different atmosphere here over the years, but I am concerned and concern has been expressed to me, and I would like to have an answer as to precisely what the role of the OPP would be in this kind of surveillance, this sort of activity. If it is confined simply to groups that are engaged in some form of criminal activity within the code situation, that is one thing. But a politically subversive group sometimes is in the eye of the beholder. I would just like to have clarification of that point from both the Attorney General and the Solicitor General.

Mr. Rotenberg: In which order?

Mrs. Campbell: Whichever. I think the Attorney General should sum up.

Mr. Hilton: And then say ditto.

Hon. Mr. McMurtry: The OPP are not involved in matters that are related to national security. What is a subversive group and what is not a subversive group? I'm not even sure that I could define that. I'm not sure that I could define what a subversive political group is.

Mrs. Campbell: That's the problem.

Hon. Mr. McMurtry: It's not a problem. It's not a problem at all. If we have reason to believe that a group, you can call them subversive political groups or you can call them the Happy Angels Incorporated, is involved in criminal activity, it will be investigated for its criminal activity, not for its political beliefs. The OPP is not involved in any investigations of individuals, investigations being related to political beliefs which individual officers may or may not regard as subversive. Their mandate only permits them to investigate activities of groups, however constituted, that they have reason to believe are engaged in criminal activity.

Mrs. Campbell: I have one other matter. I think, Mr. Hilton, you wanted to read this statement into the record. Perhaps that should come before I inquire about it.

Mr. Hilton: Mr. Chairman, this morning Mrs. Campbell, when I read certain statistics into the record, inquired further about statistics relevant to the growth of sexual offences which have occurred in a sampling of municipalities in police jurisdictions. May I respond by stating that in the Hamilton-Wentworth region in 1977 there were 248 such events; in 1978, 259. I will read both numbers and each one will be 1977 and then 1978.

Mrs. Campbell: Would you believe that Metro Toronto figures are the same?

Mr. Hilton: By sheer coincidence, the Metropolitan Toronto figures are 1,190 in both years. In Niagara region, there were 139 and then 155. In North Bay, there were 34, then only 19. In Ottawa, there were 178 and then 245. I guess the lesson is not to go to Ottawa, Mrs. Campbell. In Peterborough there were 38 and 38. In Thunder Bay, there were 58 in 1977 and an increase to 67. In the Waterloo region, there was a decrease from 197 to 150.

[2:45]

The sexual offences that are included in these figures are rape, indecent assault of females, indecent assault of males, and other sexual offences. I don't know what the omnibus words mean. The figures represent actual offences investigated. The total sexual offences in all municipal police forces in Ontario in 1977 were 3,406, and in 1978, 3,890. There was an increase of approximately 14 per cent.

A comment in caveat on these figures is, this does not necessarily represent an increase in the incidence of sexual crime, but does show an increase in crimes reported. Recent amendments to the Criminal Code aimed at reducing the trauma of the court testimony by victims has resulted in more such offences being reported and investigated. I provided Mrs. Campbell and the members with a copy of this.

Mrs. Campbell: I very much appreciated it. It interested me when I said I didn't believe the Metro Toronto figures. The chief has consistently expressed the opinion that these sorts of offences are on the increase for one thing, and it doesn't strike me that Metro Toronto, for other purposes, is as constant as this, and to have exactly the same numbers in the two years leaves me with some queries.

The thing I wanted to raise with the Solicitor General is, in the seminar which was held by the former Solicitor General on this whole matter basically of rape, but covering all of these sorts of assaults, a police officer and a doctor from Toronto General Hospital both gave some evidence. I haven't refreshed my memory with the transcript of that seminar, but as I recall it the police were quite critical of those hospitals in the Metro area which seemed to take the position that they were not prepared to carry on the necessary investigation which is so important in the administration of justice. I think that's confirmed in one case, not in the other.

It seemed to me it might be appropriate for the Solicitor General to consult with his colleagues to see to what extent hospitals and the medical profession are not prepared to serve the ends of justice in this province. We do have the additional case, I believe in the Kitchener-Waterloo area, of a young child waiting eight hours for a proper examination, which doesn't assist in the administration of justice.

Would the Attorney General or the Solicitor General, or both in concert, believe it was appropriate to have some discussions with his colleague in this matter so that we might see even more clear evidence as to just how many cases are investigated? Without the kind of evidence that is necessary in some of these cases, I'm sure an investigation would not proceed very far.

Hon. Mr. McMurtry: The seminar to which you refer was a seminar that was arranged by the Provincial Secretary for Justice, who also happened to be—

Mrs. Campbell: Oh, that was his capacity?

Hon. Mr. McMurtry: —the Solicitor General. I mention that because the material is somewhere in the provincial secretariat's office. We may have copies of it, I don't really know. I recall hearing at the time of the allegation of refusal, on behalf of a doctor or a hospital—

Mrs. Campbell: Two hospitals.

Hon. Mr. McMurtry: —to co-operate in relation to this type of investigation because they regarded it, as I recall at the time, as being hassled with court appearances and the inconvenience of—

Mrs. Campbell: That was not their excuse. Their excuse was they didn't have the facilities to make the necessary examinations.

Hon. Mr. McMurtry: Whatever was communicated to me may have been a little different. I will confirm this for you, I was very concerned about it as Attorney General, who is responsible for the prosecution of these cases and also responsible overall for

the proper administration of justice in this province.

I was informed at the time that this was not a problem for the Toronto police. It is my recollection that evidence of that nature was given, but it was an isolated situation. I'm just relying on memory now, because this goes back a couple of years. I will confirm the accuracy, or otherwise, of my recollection.

Mrs. Campbell: Queensway General Hospital has rather confirmed that position as a result of my colleague's remarks in the House. As I read the Globe and Mail article, the Queensway did seem to confirm that lack of practice. St. Joseph's Hospital, which was the other one that was indicated, stated that was not the practice. It was an error in that case. I think, in fairness, that's what came out. Mr. Hilton is nodding his head.

Mr Hilton: That is what appeared in the newspaper yesterday.

Mr. Acting Chairman: Are you finished with your question, Mrs. Campbell?

Mrs. Campbell: Yes, sir.

Mr. Acting Chairman: Mr. Young.

Mr. Young: Thank you very much. I want to raise a couple of brief matters with respect to police policy as far as road safety is concerned in Ontario. The minister in his leadoff dealt with the matter of road safety and what is being done at the present time.

Two years ago, the select committee on highway safety tabled its report in this whole matter. The minister pointed out that we now have the Ontario Traffic Safety Council at work, and I trust he has made this very important document available to that council, because we had some pretty important people acting on that committee and we had testimony from the top people concerned with this whole matter in Europe and across this continent. Distilled in here is some real wisdom which I think is worth looking at.

In view of the climbing death rate and accident rate in recent years, which we have been very concerned about, I was interested to see that the minister, has as a result of that been thinking in terms of better enforcement and police visibility, which is one of the important things in the whole matter. What progress has been made in the whole matter of selective enforcement? That is, we can think in terms of using enforcement for revenue, which has been the case so often in the past, so we put our radar traps in a long straight stretch where people are bound to speed. On the other hand, enforcement can be concentrated in the areas where deaths and serious accidents have occurred. I think that is something which the minister is aware of and I think something has been done in that field.

There are other things I am concerned about and would like to ask about. There's the matter, for example, of enforcement on those times of the week when the accident and death rate is very high, from Friday evening until Sunday midnight, or a little later. This is when the high accident rate and death rate occur, particularly involving young people. That is when the graph really shoots up into the air and where the danger occurs. I wondered whether that selective enforcement includes that area where the high risk is.

Weekends are a little difficult as far as the police are concerned and it may be that there is an inclination to leave that neglected just a bit. The committee looked at this and our feeling was that this was the area where real selective enforcement ought to be looked at. More than that, we should be looking at what could be done in the taverns themselves and the drinking areas where young people tend to congregate and then drive their cars home in a state where they should not be driving. Perhaps something might be done with the Alert machine, where the owners of the drinking establishments might install some devices and people who are going to drive can be encouraged to take the test and see whether they should drive home or get somebody else to drive their cars. That is one field.

The second field is in the matter of equipment. At the time the committee did its work, we found that there were about 100 breathalysers short in Ontario for adequate testing. I wonder whether that shortfall in the intervening two years has been made up and whether the Alert machine is really taking its place, as it should be taking its place, in the policing of our highways today. The RIDE experiment in Etobicoke certainly proved itself. Metro-wide proceedings are taking place to follow that up. But how far outside Metro are we thinking in terms of using the Alert machine?

Coupled with that would be the matter which the committee also recommended, the 24-hour suspension and the powers of police to do that, and that's perhaps a matter for the Attorney General, not the Solicitor General. Unfortunately, I wasn't able to get here when this matter was being discussed. We are then told it is a matter of expenditure and training and so on. This kind of expenditure, in view of what is happening on the highways, is extremely important and should have some real priority.

The other matter which I bring to the minister's attention which is a little problematical, I know, is the matter of cameras on the highway. I had a chance to look at these cameras in use in Europe, and I was very impressed with the way in which the police forces there are using them to catch speeders on the highway. Speed kills, yes, but if you can slow down some of the speeders that's important. What they do there is perhaps buy 20 cases and put them up along the danger spots. They might have only four cameras in those 20, and shift the cameras from place to place from time to time. I saw one instance just outside Frankfurt in Germany.

I have some figures here which are rather startling, Mr. Chairman, and I'll quote two or three of them. I think the Minister of Transportation and Communications (Mr. Snow) has this. I'll make a copy available to the minister if he wishes it. In 1979—in this particular area of highway—downhill and uphill, as the case may be, curved road, six lanes, three lanes each way—in 1971 there were 199 accidents with eight deaths and 83 injuries. In 1973 fully automatic traffic speed meter cameras were installed. The 183 deaths dropped to 84 and by 1974 dropped to 45, with deaths down from eight to two to one in 1974; injuries down from 83 in 1971 to 29 in 1973, and 18 in 1974.

Mr. Acting Chairman: What was the first date? You did say 1979. I believe it was 1969.

Mr. Young: The first date I quoted was 1971. That is just prior to the monitoring of the speed limit signs and then the cameras were installed.

Mr. Acting Chairman: You started with 1979. I think you are in error there.

Mr. Young The list indicates that after 1966 certain changes were made in the highway. The significant thing I want to mention is the fact once the cameras were installed, this thing happened. With our present enforcement, we have the problem of catching only a very limited number of speeders. So the driver is inclined to take his chances because only very few of the offenders are actually caught.

[3:00]

With the camera system mounted in those areas of real danger, every single speeder above the speed limit set on the camera is caught. A picture is taken of the back of his car—it used to be the front but sometimes there were people in the front seat alongside the driver who shouldn't have been there and wives were sometimes a bit concerned about this, so they shifted to the back. They took the back of the car with the licence number and, of course, the time of day and the speed at which the car was travelling registered on that photograph. Then the photograph is used as evidence.

Every speeder is caught in that kind of situation. Even though the camera may not be in that box. once the driver is aware of what's going on and he sees the box—remember the picture is taken after he passes the box, not before; so he's not aware whether the camera's there or not—he's inclined to cut his speed. It's the same thing as with the black-and-white car anywhere on the road; there is the halo effect to the good on drivers within reasonable distance of that car.

My point is that every single one is caught and every single one can be apprehended. The problem is that our legislation says the driver of the car must be apprehended, not the owner. The European pattern is to subpoena the owner. I know that would require a change in the legislation here, but it may be worth doing.

Just this morning we heard that pictures are being used by the police force to apprehend Mr. Paris. The police had taken the pictures and they were used as evidence against him. He was picked out from that picture. So we accept this as a principle in our society.

I know that rental cars and fleet cars and that sort of thing do present some problem here, but in this computer age I don't think those problems are insurmountable. With the kind of experience they are having in Europe with the cameras in the lowering of the death and accident rate, I think they are something this government ought to be looking at very carefully.

I think it was dismissed at the time of our report because of the legislative changes. As I say, I think those can be overcome. It may be that employers who provide cars for their salesmen or their representatives would be interested to know if their drivers are not living within the law. Something can be worked out so those firms can designate who the driver, or the person who picked up the car from a rental firm, is.

I bring that to the minister's attention, Mr. Chairman, because I think this is one way in which our experience might follow the experience of many of the Europeans in this field. I would like the minister's reaction. I think if we can get answers to these things we might have a little further discussion. But fundamentally these are the things I wanted to bring to his attention because the Minister of Transportation and Communications indicated they were re-

ferring these matters to the Solicitor General. At that time it was another person, of course.

Hon. Mr. McMurtry: Thank you, Mr. Young. I certainly share your concerns in relation to highway safety and I personally applaud the work that was done by the committee on highway safety, a committee which you so ably chaired. I would like to make it very clear that simply as a citizen of this society I have often been distressed by the complacency with which the average citizen appears to view the carnage on the highways.

In Ontario we lose 1,400 lives every year approximately—over the last several years—and many tens of thousands of people are seriously injured. Yet there is this attitude, "Well, like death and taxes, there seems to be some degree of inevitability."

Regrettably we appear somehow to be prisoners of statistics. We live in an age of statistics and the attitude seems to be that where you are in that sort of strait-jacket you are never going to be able to do a great deal as long as we have cars or an increasing number of vehicles on the highway. I hasten to add that I don't share that pessimism, but I regret that it is not a higher priority across the community as a whole.

I can assure you that as long as I am Solicitor General this whole issue of highway safety will have the highest of priorities. But as I have said on many other occasions, until the community as a whole makes a concerted effort to reduce the terrible tragic dimensions that are represented by the highway accident statistics, I do not suppose we are going to see a great deal of progress. We will certainly continue to do what we can and hopefully encourage the public to take the attitude that they are just fed up.

I guess it really boils down to the point where the average citizen will regard fast driving, careless driving or alcohol abuse on the highway as just totally, socially unacceptable. But unfortunately, we seem to be faced in the western world, at least, with this rather curious love affair between the driver and his or her automobile. We all know how difficult, therefore, it is for any government that attempts to interfere with this wonderful relationship, notwithstanding the destructive results that we see every day on our highways.

Perhaps I may deal with some of your comments seriatim. I have discussed selective enforcement with police officers—OPP and other officers. They assure me that revenue is not a factor in the placement of radar machines. Sometimes they may be out on a straight stretch of highway, not because they are trying to belt up the revenue but simply because high speeders, even on a straight stretch of highway, can represent a hazard. I am assured that revenue is not a factor. Effective law enforcement is the guiding consideration.

As to the allocation of resources during the high-accident period, such as on weekends, I can tell you if you look at our OPP overtime bill, it is enormous.

Mr. Hilton: It is in excess of $7 million.

Hon. Mr. McMurtry: Mr. Hilton says it is in excess of $7 million this year. It is a pretty good indication that during the past six months or so we have made a very strenuous effort to get every possible vehicle and body out on to the highway during the high-accident periods. Of course we have less control over what other forces do, given the local administration.

In relation to hitting the areas of high-accident rate and high-risk rate—with respect to alcohol abuse, for example—you may recall I stated in the Legislature a few months ago that we were doing these roadside tests with the Alert machine. This was in order to establish a fairly comprehensive roadside survey which we came to believe was necessary to determine the extent of the problem.

We all know there is a problem and it is a significant one out there. We learned in looking at what was done in other jurisdictions that while in many cases people would feel a particular initiative had been successful—had reduced accidents, had reduced the incidence of alcohol abuse, for example—when closely examined they were unable to establish this by reason of any statistical base. There weren't accurate measurements as to just what the extent of the problem was at the time they would try these new initiatives. So our advisers, quite properly, took the position that if we are really going to be able to measure the effectiveness of 24-hour suspension, for example, or any other new initiatives, we had better have a better reading, quite apart from our own perception, as to the extent of the problem as it exists so we will have some benchmark to determine whether these new initiatives have been effective or not.

There has been extensive roadside surveying done for a period of weeks in a number of areas and I am told that the results of this roadside survey will be available next week. It will be interesting to see the extent to which taverns have contributed to this problem so far as alcohol abuse on the

highway is concerned. It has always been my perception they have, but we hope this survey will be of assistance.

Over the years I sometimes got the impression that some police officers adopted the very human attitude, "There but for the grace of God go I." Therefore this type of law enforcement was always regarded as somewhat unpopular. The police are supposedly dealing with the "respectable citizen" who will often tell a police officer who is investigating his driving, "Why don't you go out and catch a real criminal?" We are all aware of that phenomenon and yet these "respectable citizens" are responsible for an enormous loss of lives. A much larger loss of life is caused by respectable citizens than by the criminals in our province. That is one of the curious anomalies of society.

In any event, our police forces take the position, "No, we are not averse to waiting outside taverns even though some segments of the public may think it is rather unsporting to do so." Again we have a curious phenomenon in the community as a whole that the police somehow should give the driver who offends the law a sporting chance. I think the eradication of that type of attitude is essential to any advances in this area.

I am told that so far as the OPP are concerned, there is a sufficient number of breathalyser machines in operation with perhaps very few exceptions in the various areas of the province. The cost of the machines has not been a problem. I have made it clear that no area of the province is to be deprived of a breathalyser machine because of so-called cost or because of our budgetary problems. I gather we do have limitations with respect to the number of people we can train at any one time, but I am told—I will just clarify this with Mr. Hilton in a moment—that these machines are in operation.

There has been widespread testing of the Alert machine and its use has been gradually expanded across the province. What is important, in my view, in relation to the Alert machine, is this 24-hour suspension. It probably makes sense only if you have a sufficient number of Alert machines in operation, because if you are going to have a breathalyser test administered, you are dealing not with a 24-hour suspension but either a charge or no charge.

[3:15]

The Highway Traffic Safety Council met this week. They have been reviewing the advisability of proceeding with the 24-hour suspension scheme. They are recommending that we do proceed. Certainly I think the use of Alert machines in conjunction with such a program is essential.

You may recall when I tabled the report that the inter-ministerial committee had done on 24-hour suspensions, which included a recommendation that we proceed with such a program. I guess I tabled the report about three years ago. There was widespread public outcry because the perception was that the police are going to be the investigators, judge and jury, and people were going to lose their licences, albeit for a brief period of time, as a result of the subjective assessment of the police and that this was open to abuse. There was a great deal of criticism of the proposal because there was no objective judgement to be combined with the subjective approach.

The use of these Alert machines, in my view, should remove most of this concern.

Mr. Young: If I may interrupt, Mr. Chairman, are the Alert machines much more effective than the original ones? I haven't been in close touch with the situation but I know the second generation is much better than the first and there must have been a succession of them since.

Hon. Mr. McMurtry: Yes, they are better. Continually they are being refined and improved. I understand they are quite satisfactory.

Mr. Young: They work more quickly or more expeditiously.

Hon. Mr. McMurtry: Yes. I don't believe this is a problem. Mr. Douglas Lucas, who is known to you, Mr. Young, is here and he is our expert from the standpoint of the forensic sciences branch of the ministry. He can perhaps enlighten us further as to just the degree of progress we have made in relation to the utilization of the Alert machines because he has been very much involved in all problems related to alcohol abuse on the highway. It might be of interest if we were to hear from Mr. Lucas.

So far as the cameras on the highway are concerned, this presents a significant problem well beyond the mechanical or procedural matter of amending our legislation or not. This touches at what people regard rightly to some extent as a basic fundamental right, and that is requiring the crown to establish the offence against the specific individual, and at the same time giving that specific individual a fair opportunity to answer the defence. So this tradition that requires us to prove a moving offence against the actual driver as opposed to a parking offence, which

will of course affect the owner, is very deeply entrenched in our administration of justice.

I think that while we will continue to review this aspect of cameras on the highway, it is a very sensitive issue. The perception is that the public would not really have an opportunity. How can I remember the speed I was travelling on a particular stretch of road when I may not hear about it, so far as the charge goes, for two or three weeks or more? Then the camera becomes, again, the total judge and jury without much opportunity for the individual to challenge the accuracy of the camera from the standpoint of saying, "Look, I remember being on this stretch of road and I know that I was not exceeding the speed limit."

I am not quarrelling with what may be the reliability of this type of equipment, but if we are to amend our legislation to make the owner responsible, quite apart from any of the problems that you have touched on in relation to leased vehicles or vehicles that may have changed ownership, I think this will require a pretty careful assessment as to the whole issue of whether or not we are venturing down a very arbitrary road. While I share your concerns certainly, and share your desire to implement any new initiative that will reduce the carnage on the highways, this is a very sensitive issue. I know you appreciate that.

We will certainly continue to monitor what is happening in Europe. It is very curious how the different traditions in each society are obviously influenced to a large extent by their own particular traditions. In West Germany, I gather these cameras are utilized. I use West Germany as an example in that there seems to be some degree of acceptability in the public. But I know in West Germany they are very fearful of reducing the speed limits, notwithstanding the energy shortage. I read that the West German Chancellor was very fearful of reducing the speed limits because of the deeply entrenched tradition of his constituents to drive their vehicles fast along the highway.

So I think you have this curious anomaly. On the one hand they seem to accept the use of cameras which would be regarded as unfair in our system, while at the same time they are very loath to interfere with speed limits.

Mr. Young: They and the Swedes are similar in the sense that they vary the speed limits on the highways. In danger areas they cut the speed limits down and on the autobahn straight sections it is wide open. But they do discriminate that way.

Hon. Mr. McMurtry: Yes.

Mr. Young: But there is no question that we have to make up our minds that we are going to trade so many lives for this philosophy of life we have. I think that is the problem always in a society like ours. At a certain time we felt this was something that should be looked at very carefully and monitored carefully because it has the possibility of reducing accidents and death rates very significantly. That has been the proof. They are something that we should be monitoring carefully.

Hon. Mr. McMurtry: I just wonder, in view of the fact that Mr. Lucas has been with us a good part of the day, whether the committee members might like to hear from Mr. Lucas.

Mr. Acting Chairman: I am sure we would, but we have vote 1701 and we are dealing now with the public safety program, the centre of forensic sciences. I wonder if the committee would carry the first vote.

Vote 1701 agreed to.

On vote 1702, public safety program:

Mr. Acting Chairman: We are on public safety. Mr. Lucas, you have the floor.

Mr. Lucas: Mr. Chairman, just to respond to Mr. Young's questions about breathalysers and Alerts, I guess we are into the second-point-five or maybe the third generation; it is an evolving thing. Certainly the Alert is a much-improved device over the first generation. The first generation was a good device, the second is much better. I think something we should note is that the improvements have been made by the Canadian manufacturer. It has improved since the Canadian company has taken it over.

The last time I checked, which was a few weeks ago, there were 13 municipal police forces in Ontario using it, plus the Ontario Provincial Police in four of their districts and there are about 67 units in operation. That is probably a drop in the bucket compared to the total we could use and the potential use for it, but the interest in using roadside training and the use of it is increasing as more police forces become aware of the merits and advantages they derive from obtaining the extra information at the roadside that it can give to them.

With respect to breathalysers, there are now only a relatively few areas in the province that do not have ready access to a breathalyser.

Mr. Young: What do you mean by ready access?

Mr. Lucas: Within a reasonable distance. As an example, Central Patricia does not have a breathalyser and it is 320 kilometres to where there is one. We did have one in there at one point and they didn't use it. They only used it two or three times a year so there isn't the same need. We could use a few more. I estimate about 30 more would make everybody within a reasonable distance of them. By reasonable distance I mean about 50 kilometres.

Mr. Young: That is down from about 100, which the police estimated two years ago.

Mr. Lucas: The 100 I believe was that there were 100 detachments of the OPP that didn't have one. There is still a substantial number of detachments that don't have them but a number of those are one-man or two-man detachments. They are not 24-hour detachments.

Mr. Young: They are available within reach.

Mr. Lucas: Really, one could hardly use one if there was one there but there are about 30 that could use one and it would reduce distances. For example, just this year places like Merlin, which I think is about 30 kilometres or something from Chatham where they would use it, would have one. They would use it about 40 times a year. Gogama, on the other hand, might only use one 10 times a year so that there isn't quite the same pressure to put them in there. As the minister indicated our limiting factor now is facilities for training.

We can train about 180 officers a year with our present resources and that is not sufficient to keep up with the demand. There are over 200 units in operation so that would not even allow for training one man at each unit. But we are getting there as fast as our resources will currently allow us.

Mr. Young: There is the other matter in addition to the apprehensions on the highway, and that is the matter of building in a speed limit for the motorists who are in the new generation of smaller cars. Our committee didn't have time to go into this although we have the documentation and all this sort of thing. Unfortunately our time was limited and we had to get a report in. This is something that I think is not given adequate thought, for the same reason, perhaps, as when we were talking a minute ago about the cameras, that it is ingrained into our society that we should be able to step on that accelerator and go as fast as we like.

But there is a growing feeling on this continent and elsewhere that we should be engineering into our cars a maximum limit—70 or 80 miles an hour or whatever it might be. That, of course, would cut out the high-speed chases as well as a lot of other dangers. It also might cut back tremendously on the death rate, so engineering is an answer here and it should be something I think that our government should be looking at very carefully.

[3:30]

Hon. Mr. McMurtry: I agree. If I had my druthers, I would see a governor built into all cars, with the exception perhaps of police cars—

Mr. Young: Or your own.

Mr. Bradley: Chauffeur-driven limousines.

Mr. Young: Naturally we wouldn't think of a police car as being governed in this way.

Hon. Mr. McMurtry: No. You are certainly on to a pet hobby horse of mine, Mr. Young, in this whole area of safety. The automobile manufacturers, I think, have been very irresponsible in their whole manner of marketing vehicles. They found that selling safety doesn't sell automobiles, unfortunately.

Mr. Young: Speed does.

Hon. Mr. McMurtry: They have capitulated to selling speed, and we have this ridiculous phenomenon in the western world where the automobiles are called tigers or mustangs or wildcats or cobras, et cetera—all calculated to bring out the aggression of many drivers. The fact that we as a society have tolerated that, I think, is nothing short of a disgrace. I think the automobile manufacturers have provided no leadership in this area. They have simply let the marketplace dictate how they are going to market their automobiles without any serious regard whatsoever for the thousands of lives that are lost every year. I find it personally very distressing.

Mr. Young: But governments have now been stepping in to limit the way in which automobiles can be manufactured and there is no reason why this cannot be a priority.

Hon. Mr. McMurtry: I agree with you. I should hasten to add, in fairness to automobile manufacturers, that governments generally have shown the same lack of guts in this area.

Mr. Lupusella: I have a supplementary, Mr. Chairman, in relation to public safety.

At least the Solicitor General recognizes this problem. The government admittedly has to do more to solve this problem, which affects a lot of people in our society. Recognizing that, what else is the Solicitor General planning to do in the law enforcement process to make sure drivers are going to follow the laws which now exist across the province? I

have to share his position that law enforcement is one way, and get into the same situation saying the public should be educated. Do you have certain programs that might be put into effect?

Hon. Mr. McMurtry: My specific responsibility as Solicitor General is related more to law enforcement than to highway safety generally. There is some split repsonsibility in this area between our ministry and the Ministry of Transportation and Communications, which has the general overall responsibility for highway safety.

Mr. Young: And the Attorney General.

Hon. Mr. McMurtry: And the Attorney General with respect to prosecutions.

Mrs. Campbell: You are schizophrenic.

Hon. Mr. McMurtry: There are some people in this field of highway safety who talk about the three Es—not in any particular order of importance: education, enforcement and engineering. The engineering is related to the design of highways to a large extent—certainly it is of crucial importance. Law enforcement, including government initiatives with respect to the design of automobiles—which you might say also could fall into the general category of engineering—is very important. Provincial governments can and should make representations to the federal government which has authority in that area.

With respect to education, I would like to see a lot more education. We have taken some initiatives with the Ministry of Transportation and Communications in this respect. It would be premature for us to commit ourselves to some of the initiatives until we've got some sort of agreement.

Personally I believe we should have more driver education. The licensing of driving schools, I guess, will not occur now until the spring, but it will give us more opportunities to take advantage of driver education. But before I state what we should consider, perhaps Mr. Lupusella is only interested in knowing what we have committed ourselves to, as opposed to what we should be considering. I'm prepared to take the broad or the narrow approach.

Mr. Lupusella: Perhaps you would expand on the concepts of what you are planning to do.

Hon. Mr. McMurtry: In some of these areas I am not empowered to make any commitment on behalf of the whole government. I am just saying I think that we should do more in the area of driver education. For example, I think we should be considering seriously driver education as an opportunity for people to regain lost points. If a person were told, for the sake of argument, that he could gain back two or three demerit points by taking a government-approved driver education course—which is done in other jurisdictions—I think this could help improve the quality of driver education.

This is a very controversial area, but I think we as a government should be considering the requirement of retesting. We do it for commercial drivers. I don't think we should wait until you're 80 years old or whatever it is before you have to have mandatory tests. I think as members of a free community, we should have a more regular system of retesting—whether it should be every five years or eight years or whatever. This would be enormously unpopular with the public, I'm sure, and perhaps with some of my colleagues who have to watch the purse strings in relation to the cost of this retesting. But if we're serious about highway safety this is what we should be doing.

We should be doing more in the way of compulsory inspection of automobiles that are on the highway. But government is the art of the possible. Government has to provide leadership, obviously; but no government, regardless of its political complexion, is going to get itself so far ahead of public opinion that it's cut off from the public and loses public confidence.

I've been going about the province to some extent discussing highway safety with local police forces, local school boards, to see if we cannot establish greater co-ordination of our efforts in relation to education in the schools and to new initiatives with respect to law enforcement in particular areas.

I spoke to the motor vehicle safety association; I was at the Ontario Truckers' Association two or three weeks ago, and not just preaching highway safety. In some cases you are only preaching to the converted in any event, or people who at least pay lip service to it. But I was inviting ideas from the public sector or the community as a whole as to how we, as a government, may be more effective in encouraging highway safety.

I have talked about the formation of the Highway Traffic Safety Council which we formed in the spring in order to bring about more effective law enforcement. This is something Mr. Young recommended in his report.

The Ontario Police Commission at my request has designated an individual to concentrate solely on highway traffic safety—something it didn't have before.

Our safety council recommended the 24-hour suspension which we will be seriously considering in the context of Alert machines.

I am promoting the use of Alert machines with various municipal councils who have responsibility for local police enforcement across the province.

I think the initiatives that are being taken by the Ministry of Transportation and Communications in their announced intentions with respect to the probationary period for first-time drivers, with respect to photographs on licence—

Mr. Young: Probationary licence legislation seems to be somewhere in abeyance.

Hon. Mr. McMurtry: I would have hoped to see it introduced before now but it certainly will be introduced in the spring session.

Mr. Young: Legislation has been given second reading.

Hon. Mr. McMurtry: Yes. I meant the regulations we have to agree on are pretty important. I'd like to see that move along a little faster. I'd like to see our photographs on drivers' licences proceeding more quickly because the police say this is essential in so far as enforcement of driving suspensions is concerned.

I'd like to see our plate-to-owner concept move along a little faster. I think with a plate-to-owner concept we may be able to sell a little more effectively Mr. Young's proposals of the use of cameras because the licence follows you rather than your automobile.

Generally speaking I think we have a responsibility somehow to involve the public to a greater extent than we have been able to do in the past in making highway traffic safety a commitment of all reasonable individuals. In government we do have responsibility to do that. While the battle sometimes seems a little discouraging in view of the complacency about which I spoke earlier, and because we appear in the minds of many to be prisoners of statistics, I think our seat-belt legislation established that's not necessarily the case. I think it demonstrated that new initiatives can save lives.

I'd be very interested, Mr. Lupusella, to have any of your suggestions as to how we might be more effective in this area of highway traffic safety.

Mr. Lupusella: Mr. Chairman, I would like to thank the minister. During estimates and questions in the House we have been trying to make our contribution by raising certain concerns. The art of the possible can be made by a Tory government because everything can be made possible.

At any rate I will raise a particular concern of mine under this public safety item. I think it is a widespread problem although especially so in Metropolitan Toronto.

I refer to collisions taking place in the middle of intersections. Sometimes the general public is affected by those collisions as well as the drivers. On occasion, drivers are trapped by traffic lights when they are making a left turn, and this can cause problems. Is there any way to implement flashing lights in all the intersections in Metropolitan Toronto which might reduce the risk of collisions between cars and the public as well?

[3:45]

It seems that in Europe, whichever intersection you go to, you see a flashing light which gives an opportunity to the operator of a car to make a left turn safely. Here you are trapped and you see the police which cost you $28 or $30 plus three demerit points by bringing you before the courts eventually. Sometimes, just because you aren't paying more attention, as a result of other cars coming from the opposite direction, you are trapped with a red light.

I guess that you can discuss this particular problem. I think the money which is going to be invested on that particular issue is going to solve a lot of problems. The public can be more safe because a lot of pedestrians can be trapped as well. However, I am of the opinion that the reason they don't put in those flashing lights is the result of traps, because you always see a policeman at the corner with a traffic light trying to catch someone who is making an illegal left turn. Of course, it's revenue for the province and it's also good to maintain the judicial system.

Hon. Mr. McMurtry: Well, we don't take advantage—

Mr. Lupusella: Again, just for the sake of public safety, for the person who is driving the car, the pedestrians who are supposed to cross from one side of the street to the other, all of these accidents taking place in a big metropolis like Toronto, I guess that the Solicitor General can voice this particular concern and in my opinion it is also part of a concrete suggestion to make sure that the public is going to be protected. As for the driver who is caught in the middle with a red light, we shouldn't put the driver in such a situation, but make sure that he's going to make a left turn while the flashing light is on.

Hon. Mr. McMurtry: My perception was that at many intersections we do have flashing lights for the assistance of motorists as well as for the assistance of pedestrians. I can assure you that no stop lights in any area that I'm aware of are designed

simply in order to assist the police in laying charges.

I'm obviously not a traffic engineer. There are many people in the province and various municipalities who specialize in this area. I certainly would be interested in any circumstances that would lead members to believe the design of any intersection with respect to the lights that are employed is not adequate or could be improved. I certainly would be happy to pass on these concerns to the local authorities who have a final decision-making responsibility in these areas.

Mrs. Campbell: In some cases.

Hon. Mr. McMurtry: It may be possible to bring in provincial regulations with respect to—well, it is, in so far as certain standards are concerned—but if you can be specific at any time about any areas of the province where you feel the engineering is inadequate so far as the traffic light system is concerned, then we would be happy to have that input.

Mr. Lupusella: Mr. Chairman, if I may briefly reply, the reason I am raising this particular issue is as a result of the fact that in Metropolitan Toronto—I am also not a traffic engineer able to give a concrete solution to the problem—but if you go to traffic court you see all sorts of people, and I have been going just for the sake of curiosity, with this particular problem of being trapped with a red traffic light, all the reasons they have been raising before the judge were that they had been waiting to make sure the way was clear.

I don't think the law is clear, as well. I've been trying to read the law. I guess I wrote you a letter as well. I wrote a letter to the Ontario Police Commission. They told me to get in touch with the Minister of Transportation and Communications. Who is responsible? The police force in the meantime is laying charges against individuals. I realize it's a delicate situation which can be easily solved if the flashing light is going to be installed in those intersections. Of course, I'm not talking about where there is a clear indication that you cannot make a left turn. I'm not talking about those cases. I'm talking about intersections in which the individual can make a left turn and is caught in the middle.

There is a public concern here as a result of accidents taking place and a lot of pedestrians being caught in the middle as well. So I hope that Metropolitan Toronto, through the Ontario Police Commission, because it involves the police forces as well, is going to voice this problem and I think that an effective urban plan can be very well orchestrated to take into consideration this particular problem.

Mr. Ruston: Mr. Chairman, I haven't been in to your meetings previous to now, but I was reading over your remarks at the beginning so that I would know more or less what has been going on up till now.

I think in June, if I remember correctly, I raised it in the House once or twice, and I think you made some statements with regard to increasing the staff of the Ontario Provincial Police by 150 this summer. I am wondering what was the end result of that and how many new staff were put on this year, and I mean staff over and above what we had previously.

Hon. Mr. McMurtry: Obviously we weren't going to be able to get the 150 new staff for this summer. I indicated that this was an objective that I thought we should work towards because of an OPP report that was prepared which indicated that this type of visibility on the highways would reduce the rate of accidents fairly significantly; I can't give you the precise statistics.

Given the program of restraint, I have not yet won that battle and whether I ever will I don't know. I repeat what I have said publicly and privately: We need more OPP officers on our highways.

Mr. Ruston: Then, in effect we probably don't have any more than we had the previous year. Is that correct?

Hon. Mr. McMurtry: That's right.

Mr. Ruston: I see. You mentioned earlier today I believe that you had $7 million in overtime for the OPP for this year already. Is that correct?

Hon. Mr. McMurtry: Yes.

Mr. Ruston: It seems as if industry and governments have a tendency to use overtime, but the figure of $7 million seems to add up to a lot of time and by hiring 200 more officers that may cost you a rough figure of anywhere from $4 million to $5 million. If you are working an officer on Saturday at time and a half and then he works on Sunday, how many hours do you have before you have to pay double time? In industry, if you work over 48 hours, then of course double time comes into effect on certain days. What is the situation with regard to the contract with the OPP?

Hon. Mr. McMurtry: A lot of this is by contract. Mr. Hilton can give you some of the details.

Mr. Hilton: The overtime account of the OPP is made up of many areas. The area of criminal investigation accounts for 16.26 per

cent, and we are getting down to one hundredths here, of the overtime account. You will understand that when an officer is involved in a criminal investigation and the whistle blows, he just can't stop; he keeps right on going in relation to that.

Motor vehicle investigations account for 3.46 per cent of the overtime account. It would be an act of God that could eliminate accidents happening at the time when a man was going to move from one to the other.

Liquor Control Act investigations are very small, 0.97 per cent. Other investigations are 2.16. This category includes investigation of complaints. To eliminate this category would in many instances require members to return to a location on a second time for an interview.

Courts and inquests, where an officer must attend at court time, when directed, are 8.46 per cent. I personally thought it would be higher, but that is the way it appears. That is in criminal matters. In traffic matters it is 4.06 per cent.

Other duty hours are 24.57 per cent. This is the largest single category and includes overtime for such things at Boise Cascade. Of this overtime, 43.17 per cent is for Boise Cascade. In terms of total overtime, Boise Cascade accounted for 10.73 per cent of the total overtime. This category also reports overtime accumulated when, for any number of reasons, insufficient personnel are on duty at a particular detachment and it is necessary to ship persons to other detachments. On holiday weekends, large summer detachments are required—additional personnel to deal with both actual and anticipated problems.

To eliminate this category we would require a policy of not responding to calls for assistance, or making any attempt to have officers on duty, should court, illness or other unforeseen matters interfere with their duty schedule. It would further require a tremendous increase in the number of personnel assigned to industrial disputes if overtime were disallowed.

Highway Traffic Act: special details, escorts and point duty, 2.9, which once more would require all traffic escorts to be completed prior to the change of a shift. Community services, preventive measures in safety, all traffic safety and crime prevention activities other than those during normal working hours, would have to be eliminated.

Breathalysers account for 1.78 per cent. Aircraft and radar account for 0.41 per cent. Training at the OPP school and training at the Ontario Police College establishment at Aylmer account for 3.99 per cent.

NCO administration, field and district headquarters, 0.79 per cent. That is not a significant percentage, but the administration in this instance includes supervision. To eliminate that category would reduce supervision.

Identification: 0.92 per cent. To eliminate this category would require the elimination of identification personnel and might require the necessity of stacking phone calls. Summonses and warrants account for 2.9 per cent. Search and rescue on waterways, people lost in bush and this sort of thing, account for 1.73 per cent.

Meals in overtime are 0.23 per cent. Not to honour this category would mean that the force would be breaching their memorandum of understanding with the association. Court officers' duties: 0.3 per cent.

Statutory holidays in uniform—this is a special high profile on those—is 22.64 per cent. Statutory holidays of civilian personnel —those are the backup people in the offices who assist them—1.47 per cent. Civilian overtime is 2.03 per cent. Should this category be eliminated, we would be required on many occasions to assign uniformed personnel to communications duties. Clerical overtime in this category is insignificant and is a most economical use of personnel.

[4:00]

I think that shows the breakdown of our personnel and how it is arrived at. What has not been added in there, but is included in those figures, are special circumstances such as floods—for example there was flooding in the North Ottawa. Also this memorandum was made for these estimates prior to the Mississauga incident. There was a tremendous involvement of police overtime there; they worked around the clock on weekends, or whenever their time was required. Those costs are in addition to this.

We have certain demand services, assisting the municipal and intelligence-oriented services, that all require overtime. That point could be expanded on, if necessary.

During this period there was court time, travel time, and lengthy investigations such as the Browndale case. That case contributed 760 hours of overtime to the total, submitted by the anti-rackets division.

What I am really saying is the increase in the number of police we have may even increase our overtime, because it would increase the number of arrests and the number of incidents that we would be able to respond to. They would demand personnel beyond the end of their shift periods, and they are going to demand attendance in court. It seems to be built into the system, unfortunately.

Mr. Ruston: I think you are right. I assumed from the minister's statements, when he was talking about having more police on the highways and so forth, that would be one of the major causes of all your overtime. You just can't avoid a great deal of the overtime. But what I am getting at is, I don't think there was really that many more man-hours of police patrolling our highways since the minister made his statement.

Hon. Mr. McMurtry: Oh yes, those were increasingly patrolled—and the aircraft control has increased—

Mr. Ruston: Statutory holidays account, I guess, for about 22 per cent of that total. But that would be about the only part, it looked like to me.

Mr. Hilton: If I may, sir: We sought to make up for the absence of those additional men by using other methods. That was hauling out every car we had that was not being used and putting it there. It was like a travelling sign to the motorist. It would possibly slow them down just for a minute, or at least make them conscious of the fact there is a law that says you shall only go so fast. We had to resort to these sorts of methods when we did not have the personnel to man those cars.

Mr. Ruston: I think most of us from rural areas would be aware of the lack of many police on duty at different times—even in our own detachment at highway 401 in Essex county. The amount of police available at any one time can be really limited. Also the time it takes to get to a trouble spot—where there was an accident, or wherever it required some investigation—has increased over the last year, from what I can gather. I think it is a particular concern to many people in areas that do not have their own police. I am sure this problem is not only in our own area but in many other parts of Ontario where it is a semirural environment and it is pretty difficult to convince yourself you need your own police department. There are not many criminal activities, yet on the odd occasion when a policeman is required, you feel he should be there within five or 10 minutes.

I suppose it is like ambulance services. We try to put them in areas so that no one has to wait more than 10 or 12 minutes to have one at his doorstep—which is probably pretty good. But what concerns me is whether we are cutting down a little too much. I know it takes a lot of manpower to cover the clock, 24 hours a day, 365 days a year. I feel police are a little too scarce in some areas.

I was quite enthused when I heard the minister saying last June he expected to be able to increase his staff. I am sure he wanted to have more staff but maybe there was not much he could do about it.

The municipalities that do not have their own police forces are in a bit of a bind, I think. It is very difficult for them to set up their own police department for the sake of having one or two policemen on duty. I don't know if there is any way we can help solve this without setting up many more small police departments. I am just not sure what the answer is.

Another thing that gives us a problem is the provincial highways that go through areas that do have their own police departments. Local police have even witnessed accidents on a provincial highway going through a township. They would be the first ones there to try to maintain a little order and so forth and they would notify the OPP who actually had the responsibility. However, the time lapse sometimes was as much as a half-hour before they are able to get there. I'm not sure how that problem can be handled.

Hon. Mr. McMurtry: We need more police officers, in my view. We have held the line on this, but I think the longer we are without any increase for several years—I make no secret of the fact that I'm unhappy with it. I think the public is going to be a lot more unhappy about it when it realizes the consequences of this sort of freeze. If this sounds as if I am being critical of my own government, so be it.

Mr. Ruston: When I travel between here and my home, it puts me on the Gardiner Expressway, the Queen Elizabeth Way, 427 and 401 in Metropolitan Toronto. I seem to find the OPP in most of these areas, and on occasions I seem to see the odd Metro police car. Who really polices 427, the Queen Elizabeth Way and 401 through Metropolitan Toronto?

Hon. Mr. McMurtry: Within the Metro boundaries, Metro would police them. It may be there is nothing to prevent the OPP being on some of these provincial highways. You are probably going to have both OPP and Metro on some of those provincial roads.

Mr. Ruston: Where I notice this mainly is the Queen Elizabeth Way and on through to the Gardiner Expressway. I'm not sure if I ever saw OPP on the Gardiner Expressway, but I certainly have from the Queen Elizabeth Way to 427 and out 427, and also the full length of 401 across Metro. It seemed to me that in all my travelling on them there has always been OPP there.

Mr. Hilton: I am advised the Gardiner and the Don Valley are municipal responsibilities, whereas the 401, 427 and the QE, even within the urban area, are our responsibilities—although you do see Metro cars travelling those highways like any other vehicle.

Mr. Ruston: What then would you classify as a through highway through another city where the OPP would be responsible for policing?

Mr. Hilton: In various regional governments we police the major provincial highways—that is, those that are designated as Queen's highways. In district urban areas we do not police urban-maintained roads.

Mr. Ruston: Okay.

I was interested when Mr. Young was talking about cameras, and the minister was discussing about how the driver could be responsible for the car. I can recall driving through a small town in Lambton county a long time ago, when I was a young fellow, and about two weeks later getting a summons that I was speeding through this little town. It makes you wonder if you were really there at that time.

Mrs. Campbell: Did you see a town?

Mr. Ruston: I never see them, no. That was quite a few years ago, and I am afraid it is dating me. I guess it was the 1930s.

Mr. Hilton: With due respect to my minister, sir, I also recall the days when—I am that old too—you could get a ticket by just the licence being written down by the officer as you went by. This was before the time they had to stop you, but there was a change in the law.

Hon. Mr. McMurtry: I am very happy to say I don't remember that.

Mr. Hilton: You might have had more tickets.

Mrs. Campbell: Mr. Chairman, in connection with the matter of public safety itself, I'd like to speak about the deployment of the OPP forces. But before I get into that, I think every opposition member who has not had an accident leaving the opposition parking lot should have no problems with any tests that may be given. Somebody one of these days is going to get clobbered coming out of our parking lot. It shows we have good judgement.

Apart from that, on the deployment of the police, and I am talking about this with reference to the safety factor—

Mr. Acting Chairman: We are on the safety program.

Mrs. Campbell: No, we are going all over the place on public safety.

[4:15]

Mr. Hilton: Yes, the concept of public safety does not include the OPP, strangely enough, which of course is—

Mrs. Campbell: That's the problem.

Mr. Hilton: I would give the whole thing to Frank Wilson.

Mrs. Campbell: The thing is that unfortunately, or fortunately, we have been allowing this kind of discussion to go on. I'm a little offended that every time it comes to us the question arises that maybe we shouldn't be discussing this thing at this point or the Solicitor General has to take off. I think we're going to get in on the same basis as everybody else.

Mr. Hilton: My observation only was that we will have the OPP people who—

Mrs. Campbell: I'm aware of that.

Mr. Hilton: —will be able to give you more accurate answers than some of us.

Mrs. Campbell: I don't think they can answer the policy questions that I'd like to address just briefly.

We're talking about public safety programs and we have engaged in a good deal of discussion involving the Ontario Provincial Police. One of the things I would like to have an answer to is really the deployment of troops. Where are our priorities? It's a question that has concerned me for years. It comes out of the public responsibility for safety and what I might call the private responsibility for safety.

The question arose as many years ago as the time when the Beatles came to Toronto with the responsibility of the Metro police under those circumstances, and it leads in, of course, to the use of OPP in industrial strikes. Since we are so short of proper policing functions in the OPP, should the private sector have some responsibility for the payment of some of the costs of policing in these areas? If we had sufficient police I might have a different point of view, but we don't.

Our Solicitor General very properly has argued in both capacities that the public doesn't give enough consideration to either Attorney General or Solicitor General. I am concerned that we are in some cases virtually robbing the highway safety aspects of the operation in favour of deploying troops to protect either in industrial strike situations or in private arrangements with rock groups of one kind or another which increases the need for police activity.

I have not yet come to a conclusion but I hope somebody in the course of these estimates will give me some idea as to whether you're even looking at these two functions and whether there isn't some kind of private responsibility for costs as opposed to public responsibility for these sorts of costs, to protect the safety in the other areas that the public very properly and appropriately is paying for.

Hon. Mr. McMurtry: We need sort of a legal assessment because some of these people do hire off-duty policemen.

Mrs. Campbell: Sure; that's not what I'm talking about.

Hon. Mr. McMurtry: No, I know. Mr. Hilton perhaps can assist us. As I see it there's no clear line because the police do have the responsibility to police anything that is a public occasion. They may not like it very much. This is why, for example, when in a particular region they're considering licensing an event such as a large outdoor rock concert, one of the considerations of the local regional council will be whether they can afford the policing—

Mrs. Campbell: Yes; should they have to?

Hon. Mr. McMurtry: —or should they have some sort of contribution. Maybe we should try to formalize this to a greater extent. I don't know.

Mr. Hilton: We endeavoured to collect from Rockcliff Park or Rockland Park. I was with the Attorney General at the time and I took the case for the injunction against the rehearing in that. We endeavoured to assess the promoters of that for the policing costs that were involved in that great influx of people.

It turned out with that particular outfit it was like trying to get blood out of a stone. Finally we had to give it up because of the lack of available cash. When municipalities are involved in labour disputes and call for our assistance we have the right to charge the municipalities, but very often the municipality is so small that if we charged them the costs that were involved it would bankrupt the municipality.

I think, with respect, there are so many factors entering into these various things that they have to be judged on an individual basis.

Mrs. Campbell: Have you ever tried to assess either side in an industrial dispute? You can charge a municipality and you can't charge either side in a dispute where you feel that the police are needed?

Mr. Hilton: We are called in by the municipality. Most industrial disputes are within urban areas and we're called in by the municipality. We have the power to assess the municipality.

Mrs. Campbell: Always, the poor municipalities.

Mr. Hilton: You don't need to say that. They just haven't been assessed.

Hon. Mr. McMurtry: That may be part of our problem.

Mr. Hilton: It may be.

Mrs. Campbell: I'm just asking that we get some kind of overview of this kind of cost. Certainly in the case of private promoters, I really don't think that the public body should be totally responsible for all the costs. I would like to have some further information about it.

Mr. Hilton: I don't know that there's much further information that can be given to you. On the other hand, I personally would agree with you. I see a large place going up like a Disneyland.

Mrs. Campbell: Yes, exactly, with government approval. I saw that too.

Mr. Hilton: I don't know what it's going to involve in policing. We may have to look at that.

Mrs. Campbell: Is that the way we get to have more police? I didn't know you were that ingenious, Mr. Solicitor General.

Mr. Acting Chairman: Before we leave that item, did you have a supplementary on that point, Mr. Sterling?

Mr. Sterling: Yes, I did. Actually, in line with what Mrs. Campbell was saying in relation to private functions which require police protection and that kind of thing, I think part of the difficulty relates to drawing hard lines as to when you cross over. Do you need 50 or 150 police or whatever? It would have to be some kind of flexible situation.

What I think relates to a problem in the Ontario Provincial Police, which should be resolved, is in relation to areas where they are in fact doing municipal policing and doing that free of charge. A large part of my constituency is covered under that particular kind of arrangement. It's very unfair to those other municipalities that charge their taxpayers for a five-man police force, as it is in Prescott, a three-man police force, as it is in Kemptville, and a five-man force in Cardinal, whereas the outlying municipalities don't have to go to their people and demand any kind of taxation yet are able to say to the OPP, "We want more service in our area."

I know it's an extremely dicey and political type of thing to deal with but I think there should be an obligation on the OPP to provide services to a certain standard and then give the municipality the option, if it wants the OPP to provide an additional service to the area, to say, "We need an extra couple of cars and then the municipality can service the area, because our municipality needs that."

I truthfully don't feel that the taxpayers of the province should be picking up that tab wholly. They should be picking up part of it in line with the grants that are given to other municipalities that are providing that. I think as you continue to subsidize that that way, you're going to cause friction between jurisdictions that provide their own police force and those that don't. I don't know exactly how the formula would be worked out, but it would be helpful.

In my view, some of these municipalities would be willing to contract for part of those services; in other words, for the extra two or three squad cars or whatever that would be needed for their particular area. They could explain that to their taxpayers.

Mr. Hilton: We're very concerned about this and very actively engaged in researching this matter of municipal policing and some free policing and some subsidized policing and some full-day policing.

We have at present requests from, I think, 19 small municipalities asking us to assume their policing. Most of them are asking us to assume it on a cost basis. We know what a car costs; we know what an officer costs. The OPP can account the figures down to one hundredth on their overtime. They can very accurately tell you what all these items cost. We are prepared to assume that policing in these municipalities.

However, there is a perceived position by the government that there shall not be an increase in numbers in the civil service or the Ontario Provincial Police. We cannot assume these because we would have to take on the police forces or at least provide an equal number of policemen to do the job and thereby we'd have to increase our costs by the same amount.

We've also got the problem that the money we would receive from that contract policing doesn't come into us, but goes into the consolidated revenue fund. Therefore, our dollar base just has to be increased and our budget has to be increased, notwithstanding the fact that we can wash its face, so to speak, by putting more money in. We still have to get more base dollars; we're unable to get that.

We are seeking very actively, and the minister is assisting us in this—and I believe the matter will be before the policy and priorities committee within a very short time—to allow us the opportunity to do that. With doing that comes the whole problem that you have mentioned, and that is the question of free policing in some municipalities and the inequity that will result when we enter into contracts of precise costs, not even cost-plus, basis.

We are engaged in discussions with Treasury and the Ministry of Intergovernmental Affairs as to how to resolve this. It's all bound up in the municipal grants system. It is a complex matter, but we are very conscious of it and want to do exactly what I understand you to suggest; that is, know what policing costs and be prepared to supply it as long as it's paid for, like a loaf of bread.

It must be recognized that to do that we will require a flexibility of staff so that if we suddenly need more men in a municipality we have to move them from somewhere. That means we're going to take them away from another part where they may well be needed. The deployment that Mrs. Campbell has mentioned is a matter of continual concern and study. Indeed there's a whole staff engaged in the analysis of accidents and crime incidence, and the movement of staff to relate to the need as it appears to evolve from time to time by demographic study. To meet that, we're constantly in that process. We do want to supply municipal needs at a fair return for those services which would be equitable across the province.

[4:30]

Mr. Sterling: I have a great deal of difficulty buying the argument—and I don't see how you can ever sell it to anybody in the public—that revenue which would come in from contract services goes into general revenue and you don't get it back in your budget, so therefore you can't hire the men.

I've stated many times before to various people there's no way you can support that kind of argument. It's got to be changed.

Mr. Hilton: I'm not wanting to support it in any way, shape or form, but the argument that I get back on the other side is if that were abandoned, then those who sell liquor, for instance, could have gold-plated offices because it would all just flow back into that particular budget.

Hon. Mr. McMurtry: That's a pretty feeble argument.

Mrs. Campbell: I think so too.

Mr. Hilton: I agree, but as I say that is what we get back on the other side.

Mrs. Campbell: On the mater of the forensic centre, have the procedures been changed in that particular centre? I recall that some time ago, for example, defence counsel felt they did not have the same availability that the crown had. At that time it was disputed that was the case.

Hon. Mr. McMurtry: That is not the case.

Mrs. Campbell: It is not the case?

Hon. Mr. McMurtry: No. The crown always makes the report from the forensic science laboratory available. The only rider is that if the defence have access to it they must share the report with the crown. In other words, it's not their private preserve. They can utilize the facilities, but the report must be made available to the crown to the same extent that the crown makes its reports available to the defence.

Mrs. Campbell: That has been the sticking point, I take it?

Hon. Mr. McMurtry: Yes, I guess in the minds of some defence counsel it has.

Mrs. Campbell: I see.

Mr. Hilton: They can go out and buy forensic services which they don't have to divulge, but if they're going to make use of the crown facilities they will do it on the same terms as the crown.

Mrs. Campbell: We are absolutely certain that the crown in all cases makes the evidence it obtains fully available to the defence counsel?

Mr. Hilton: I can't reply to that because I don't know—

Mrs. Campbell: I think that is the problem. If it is a public facility, with this kind of money attached, I would think we'd want to be absolutely certain that it operated in the public interest for both sides.

Hon. Mr. McMurtry: I'm not aware of any cases where it is not made available.

Mrs. Campbell: There were some that were brought to our attention in a previous regime, if I may say. That has been corrected?

Mr. Hilton: That's right.

Mrs. Campbell: That's what I'm getting at.

Mr. Hilton: I was advised that there were allegations of particular instances where that did not happen.

Mrs. Campbell: Yes. I presume some instruction has gone out?

Mr. Hilton: There were observations on it with sufficient notice to bring the previous instructions to the attention of all concerned.

Mrs. Campbell: I see. You will recall, Mr. Chairman, to the Solicitor General, that I made the request to the Attorney General that we might be given the transcript in the Lawrence Bulpit inquest. There was no answer to that by the Attorney General, but I now put the question to the Solicitor General. In that case I was concerned about the role of the crown, if you recall, in that particular inquest. As of now there are all sorts of other concerns related to that inquest and I would like to know whether that transcript could be made available to us.

Mr. Hilton: Was it transcribed?

Mrs. Campbell: Yes, I understand it was transcribed. Is the Solicitor General at this point prepared to advise us as to how he feels about the coroner's investigations?

Hon. Mr. McMurtry: The coroner's investigations in total?

Mrs. Campbell: In general.

Hon. Mr. McMurtry: We have Drs. Cotnam and Bennett, the chief coroner and the deputy chief coroner here. I am not aware of any complaints about the effectiveness of the initial investigation of the role of the coroner.

Mrs. Campbell: We have seen some inquests which have been widely reported.

Hon. Mr. McMurtry: The inquest as opposed to the initial investigation? I see.

Mrs. Campbell: Yes. Basically it is the inquest I am concerned about.

Hon. Mr. McMurtry: We are reviewing the recommendations of the jury in the Buddy Evans inquest, for example. The jury recommended, amongst other things, amendments to the Coroners Act that would permit the coroner to cite individuals for contempt. I recall that was one of the recommendations. I have to say that recommendation gives me a little bit of concern. I am not in a position to respond aye or nay at the present time. My initial reaction is that perhaps it is not the function of a coroner to cite an individual for contempt.

While coroners do have challenging inquests from time to time, it is my view that most of these coroners' inquests are conducted without any problems in this area. The power to cite for contempt in the face of the court is a fairly extraordinary remedy. It is a very important matter and I am not sure that the—

Mrs. Campbell: I really wasn't concerned about that particular recommendation, but there have been recommendations made in the past and what bothers me a little bit is that if, as a result of a coroner's inquest, there is no real recommendation, that seems

to be accepted and procedures stop, almost as though it were a decision-making body as opposed to a recommendation function. In other cases where recommendations have been made which recommend further action, we seem to then regard it as a recommendation only.

There seems to be a dichotomy in what we do with recommendations from a coroner's jury. In an earlier case, under another minister, the philosophy seemed to be a little—from my point of view; perhaps I was the one confused and not the Solicitor General of the day, but I was left with a very confused mind as to what the Solicitor General himself regarded as the role of the recommendations resulting from an inquest. I still think they are confused today and I would like to know.

Hon. Mr. McMurtry: The recommendations are usually brought to my attention. I don't know that I personally see every recommendation that is made—

Mrs. Campbell: No, I don't think you would.

Hon. Mr. McMurtry: —but I know the coroner usually brings what he considers the important ones to my attention. If they involve another ministry we usually will pass on the recommendations to the ministry that might be involved, such as the Ministry of Health or it might be Transportation and Communications in relation to highway safety, for example. While the recommendations obviously don't have any force of law they are certainly, in my view, given serious attention and acted upon where it appears to be in the public interest to do so.

Mrs. Campbell: I take it then we are still deliberating some of the recommendations other than the right to cite?

Hon. Mr. McMurtry: I cannot recall at this point. There are a number of recommendations from the Evans jury and, as I recall, the Metropolitan Toronto Police Department has already indicated it is prepared to implement some of them. I just don't recall, but I have a copy of it here.

Mr. Hilton: There is their response to all the recommendations.

Hon. Mr. McMurtry: There are a number of recommendations. I could go through some of them now if you would like me to.

Mrs. Campbell: I think what I am concerned about is that there were some cases, not under your regime as Solicitor General, where there were some fatalities. The response of the then Solicitor General was that the coroner's jury found no culpability and therefore that answered the questions that were in the minds of people. That is the kind of confusion I have. Because it was almost saying as long as the coroner's jury did not come to a conclusion that there was any kind of culpability that ended the matter.

You may remember that I raised the question of the eight fatalities, because I was concerned that I believe in all but one—correct me if I am wrong—there was in fact an inquest.

Hon. Mr. McMurtry: I cannot remember the one that there wasn't. I would have thought that there was an inquest in all of them.

Mrs. Campbell: I thought that in the Johnson case—

Hon. Mr. McMurtry: Oh, yes, except the Johnson case. That is where the charges are pending.

Mrs. Campbell: Yes. That is the point. The thing that has bothered me about that procedure is this, it seems to me every human life has some value and that all eight should have been the subject of some deeper concern than appears to be the case. The Johnson case was handled differently.

[4:45]

In the Evans case there were some recommendations as to possibly, as I recall it, bringing in some other investigations into those matters. In the other cases, as I recall, there was no such recommendation, but to me it leaves the coroner's jury recommendation somewhat in a never-never land. I just feel it is important we should try to come to grips with it. I did write to the previous Solicitor General at the time of the first two occurrences. My answer was that the coroner's jury absolved the police and that ended it.

I am not suggesting they were wrong but I am suggesting that it isn't really an answer to regard that as a finality.

Hon. Mr. McMurtry: There is not necessarily any finality. As I say, if it is in the public interest to act upon the coroner's jury recommendations, they will be acted upon. Coroner's juries often make many recommendations that, while with the best motives in mind, really are not very helpful. But certainly I think that in the Buddy Evans inquest, for example, the jury worked very hard under rather trying circumstances.

Mrs. Campbell: They did indeed.

Hon. Mr. McMurtry: They made some 33 recommendations. Many of these recommendations involved the Metropolitan Toronto Police Department and I have a report from the chief of police related to all the

recommendations, some of which, of course, were clearly not within the jurisdiction of the metropolitan police and he so noted. But I think it would not be totally accurate by any means to say that these recommendations are not treated seriously.

Mrs. Campbell: In the alternative, though, if there aren't recommendations, is there any review?

Mr. Hilton: I am advised that 75 per cent of the overall recommendations from coroners' juries have been implemented.

Mrs. Campbell: That is one side of the coin.

Mr. Hilton: Yes.

Mrs. Campbell: Would it be correct to assume that because a previous Solicitor General pointed out to me—I think there were two cases and I could be wrong, it is some time now—that because the coroner's jury absolved the police, that ended the matter?

Mr. Hilton: Mrs. Campbell, you are inquiring about matters of police shooting?

Mrs. Campbell: Yes.

Mr. Hilton: All right.

Mrs. Campbell: Not in the Lawrence Bulpit case.

Mr. Hilton: No.

Mrs. Campbell: I don't want to confuse you in that.

Mr. Hilton: The coroner has more information about that. I might just say that the transcript of that case was made available in the AG's estimates from our office to them for production, which wasn't produced.

Mrs. Campbell: To whom?

Mr. Hilton: In the Bulpit case. I have just been advised, it was to Mr. Takach.

Mrs. Campbell: Oh. Well, I asked if I could—

Mr. Hilton: When it was raised here and I don't know what has happened to it.

Mrs. Campbell: Mr. Takach had better come back to Toronto.

Mr. Hilton: It has now gone to Chief Judge Coulter, I understand, but the coroner will speak to that in the next few minutes. But if we may go back to the other question, there is an investigation first of all as to whether criminal charges should be laid or not laid.

Mrs. Campbell: That's right.

Mr. Hilton: In the Johnson case it was determined that it would be more prudent if those charges were investigated not by the force that was involved but rather by the OPP and that is what happened.

Mrs. Campbell: That's right.

Mr. Hilton: In the others it had been determined prior to going to the coroner's jury that there would not be a procedure under the criminal law. So that the public might have an opportunity to hear the evidence and the matter would not be swept under a rug so that the public could not hear it, the law prescribes the coroner's jury in those sorts of circumstances and these are compulsory in those sorts of circumstances if criminal charges are not laid.

They were then brought forward, and after that, after the conclusion of that or even during, if the evidence brought out indicated that criminal charges should have been laid, they could have been laid, if it had been perceived that some additional information had come forward that warranted the laying of such charges. Once they are laid, that then stays the coroner's inquest; it stops right at that point.

Mrs. Campbell: Yes. I know.

Mr. Hilton: The coroner, having heard the other evidence, the evidence is there, the transcript is there, and if at any time in the future somebody determined that he wanted to lay charges, he could lay them by private information or even if the crown wanted to reconsider. The coroner's inquest does not terminate the matter and it is open for further charges to be laid at any time after a coroner's inquest. On the other hand, if it was laid during or before, that terminates it and the coroner's inquest does not proceed.

Mrs. Campbell: With respect, Mr. Chairman, I wanted that as a matter of record because I was concerned. It appeared to me to indicate a finality in view of the fact that a coroner's jury, I think in these two cases, had not made any recommendation and had not, as it were, indicated in their minds any culpability. I felt there seemed to be a real dichotomy in the way in which the recommendations or no recommendations of a coroner's jury were perceived, and it bothered me because I didn't think that there would be finality in either case.

Mr. Hilton: I hope that is made more clear.

Mrs. Campbell: Yes, it is. Thank you. Can I get my copy of the Bulpit one?

Mr. Hilton: Yes, except perhaps Dr. Cotnam can speak about that, as to where it stands now.

Dr. Cotnam: The Bulpit case went to inquest and Mrs. Bulpit was not satisfied.

Mrs. Campbell: No.

Dr. Cotnam: So eventually the case was referred by the minister to the coroners' council.

Mrs. Campbell: That is right.

Dr. Cotnam: And the coroners' council dealt with that.

Mrs. Campbell: Yes, they did.

Dr. Cotnam: I have the report here of the coroners' council on the Bulpit case. I don't know whether you want to read it into the record or not.

Mrs. Campbell: I don't know that I—

Dr. Cotnam: It is not a police shooting, as you know.

Mrs. Campbell: No. That is what I pointed out.

Dr. Cotnam: It was a service station attendant who shot the man.

Mrs. Campbell: That is right.

Dr. Cotnam: And there were no charges laid.

Mrs. Campbell: That is right.

Dr. Cotnam: One of Mrs. Bulpit's complaints, that is the mother of the deceased, was that the same crown attorney who said there would be no charges laid also was the crown counsel at the inquest.

Mrs. Campbell: That wasn't her total concern, of course.

Dr. Cotnam: The coroners' council dealt with this and said it would be beyond their jurisdiction really to comment on this. But they in fact did comment and said maybe a second look should be taken at it and in future use a different crown.

Mrs. Campbell: They did come to that conclusion.

Dr. Cotnam: They made this comment although they said it was beyond their jurisdiction really as to what findings they would have.

Hon. Mr. McMurtry: I think they were right in that, too.

Mrs. Campbell: I thought you would not think that would be right. You gave me a very strong argument.

Hon. Mr. McMurtry: I think it is, on the jurisdiction.

Mrs. Campbell: Oh, I'm sorry, on the jurisdiction, yes.

Hon. Mr. McMurtry: On the jurisdictional question I think they were right that it was beyond their jurisdiction.

Mrs. Campbell: Yes.

Let me put it in this way. Subject to the opportunity to look at the transcript, it seems to me to read anything else into the record at this point might not be useful if we don't have the kinds of sequence that we need. I am not opposing it. It is just that it seems to me that without the background we may not be any further forward in that particular case.

Hon. Mr. McMurtry: I will try to get a copy of the transcript for you.

Mr. Lupusella: I have one quick question I would like to raise on this item of a coroner's investigation. I don't have the facts in front of me but I am sure you will recall the incident of a child being killed as a result of a Pam aerosol spray. I don't have the name of that child.

Mr. Hilton: In the Gerrard-Broadview area?

Mr. Lupusella: Right. I wasn't sure as to whether or not an inquest has been called. Maybe you can give us such assurance that an inquest is going to be called because this spray is widely used by the public and is very accessible to children as well.

Dr. Cotnam: An inquest has been booked, Mr. Lupusella. I can't tell you the date.

Mr. Lupusella: Okay. I just want this assurance.

Dr. Cotnam: We have had cases similar to this one before and we have held inquests.

Mr. Lupusella: Okay. The other point I would like to raise—

Mr. Philip: Mr. Chairman, that last question wasn't supplementary.

Mr. Acting Chairman: I gave you one supplementary, Mr. Lupusella.

Mr. Lupusella: No, there is another one.

Mr. Acting Chairman: Mr. Philip has been waiting for a long time.

Mr. Philip: Mr. Chairman, he is completely out of order.

Mr. Acting Chairman: Mr. Philip, you have the floor.

Mr. Philip: I would like to ask a question concerning the letter sent by the borough of Etobicoke to the minister. It relates to the inquest held into the electrocution of a child, Paul Dutcher; that is D-u-t-c-h-e-r. One of the recommendations of that particular inquest was that the report of the findings be forwarded to the municipal offices of all of the boroughs, their respective aldermen and the Hydro authorities. The end result was that it made it into the hands of people like myself who have raised the issues in the Legislature with the Minister of Energy when very little action had been taken after several months.

My question relates directly to the letter from the borough clerk, Mr. Cloutier, to the

minister and it relates to the last paragraph. He says, "The borough of Etobicoke recommends that some means be sought whereby the practical aspects of coroner's jury recommendations can be dealt with expeditiously and that someone be clearly designated as responsible for ensuring that recommendations are implemented."

I recognize the problem with the word "ensuring" but I think that perhaps there is some validity in the argument that one particular person or persons be responsible for doing a follow-up on a coroner's recommendations. When I called the coroner's office, and they were very obliging and very helpful to me, I had the feeling that in this particular case there perhaps was not one specific person who was doing any kind of follow-up. They were concerned about any progress that was being made on the inquest and they were very helpful to me as a politician trying to seek information.

I am wondering how you feel about that specific request by the borough of Etobicoke concerning follow-ups by the coroners on each of the coroners' inquest reports?

Hon. Mr. McMurtry: The Solicitor General obviously has the general responsibility in relation to coroners' inquests and I would think that the Ministry of the Solicitor General, and particularly the Solicitor General, has some responsibility in that area. It may be that we can develop a better mechanism than what we have and we will take this under advisement.

For example, I can see certain recommendations that are made by the Evans inquest jury that pertained to the Ministry of the Attorney General. As Solicitor General, I would hand them over to the Ministry of the Attorney General. The Attorney General, in relation to some of those recommendations, I am afraid would be compelled to say they are well-intended but not practical. The matter, for practical purposes, may have to end there unless it becomes an issue, as it may, during the estimates or in the legislation.

[5:00]

The Solicitor General may or may not be satisfied with the explanation from the Attorney General as to whether this is an appropriate response. A give-and-take of varying cabinet responsibilities takes place with respect to, say, something involving the Ministry of Energy. Perhaps there is some responsibility on our part to follow up when there is no specific response. I could cite other examples. All I can say is that we'll take a look at this mechanism and see whether it can be improved.

Mr. Philip: I suspect the reason this inquest got some action when it wasn't meeting with any response was the last recommendation—it was sent to the clerk's office of the borough and the clerk sent the information to me and the other three MPPs in the area.

This child wasn't in my riding. I may have read in the newspaper about the tragic death; and I may have thought it worth my while to do a follow-up. But the chances are that I would assume that whoever's riding it was in—it's just left too much to chance.

It seems to me there should be some mechanism whereby the Solicitor General can at least see there is a monitoring. Perhaps there should be some central file where anyone can go to find out the status of the recommendations of an inquest so that there's an ongoing monitoring process with somebody responsible for the monitoring. I don't mean enforcing, but at least monitoring the recommendations.

Mr. Hilton: That does exist now, sir. For 16 years now there has been such a follow-up problem. It exists within the office of the coroner. There is one girl who is responsible for reviewing the recommendations, seeing they are sent out to the apppropriate area, such as Hydro et cetera, and following them up. She does that in consultation with the chief coroner who gets the follow-up replies or the fact that there isn't follow-up. It must be recognized, however, that the coroners have no power to require that the reports of a corner's jury be implemented. It's a matter of persuasion.

Mr. Philip: The interesting thing in this case was that action was taken only after I raised the matter in the Legislature; up until then Ontario Hydro said they couldn't do any of these things. It was only after that we finally got them to say, "All right, we are going to do such things as insulate the wire. Perhaps there are ways of fixing up the building. Certainly we have to see that some of the things whereby kids can climb on to that roof are removed."

So some local things were done. But I, an elected representative, only became aware of it by having to go and search and dig out the information. At that time the coroner had to say, "Yes, I think we have received a reply back that's negative from Ontario Hydro. They say they can't do these things." And then it becomes a political issue and Ontario Hydro says, "Well, maybe we can do them." I'm saying that kind of ad hockery in dealing with things is just not

adequate. We need something that is more systematic and more public than what we have.

Mr. Hilton: You mean we should send all the negative replies to the local member? Usually the news media are the ones who provide the impetus.

Mr. Philip: Mr. Hilton has a reasonable suggestion: Maybe the recommendations and the follow-up on the recommendations should be sent to the local member of the Legislature or perhaps to the council of the municipality in question. Then at least elected representatives who perhaps can influence a certain body can use the kind of political clout that the coroner, in a very professional way, cannot use. Maybe elected members can become the ally of the coroner, recognizing that not all the coroner's recommendations are practical. It would give an extra body then—

Mr. Hilton: I am informed, Mr. Philip, that 75 per cent of the recommendations are implemented. Sometimes people say no, they can't. It might be an idea to table a report of those recommendations at the end of each year or perhaps at this estimate-review time. I refer to a report of those recommendations that have been implemented and those that haven't. Then whatever pressure this committee or the House might be able to bring—if it sees fit to do so; sometimes some of the recommendations are unrealistic—might assist in the implementation.

Mr. Philip: I think if that were done and perhaps broken down by geographical location, then the members who are responsible for those areas and the local municipal elected representatives at least might do some follow-up, because in many cases many of the recommendations deal with things that the municipality should be cleaning up.

Mr. Hilton: Could we take under advisement those things that we might do to assist you? We obviously have to think through how the mechanics of it would work.

Mr. Philip: I wonder if I can have a commitment from the minister as to what he feels might be a process. Can he give us a commitment that perhaps before these estimates are over he would at least give us some idea of which direction we might be going or when we might be receiving an answer on that?

Hon. Mr. McMurtry: Yes, I can certainly take it under advisement and before the end of the estimates indicate to you whether or not we've been able to agree on the general direction. If not, I'll tell you when we will have some decision. But I can't commit myself to saying before the end of the estimates that we have agreed on a particular process until I know the various factors that must be considered. But we certainly will see if we can't give you some indication of the direction in which we would like to move before the end of the estimates.

Mr. Philip: And whether or not you agree with the general principle of moving in a more public direction as I suggested.

Hon. Mr. McMurtry: I certainly accept the wisdom that this process should be as public as possible.

Mr. Acting Chairman: Thank you, Mr. Philip, for the excellent suggestion. I can assure you the Solicitor General will give it his full consideration and will probably implement it. We have a quick supplementary from Mr. Lupusella, and Mr. Foulds is the last speaker, at which point we will adjourn.

Mr. Lupusella: A quick supplementary, Mr. Chairman, to the minister is also in relation to the importance of the coroner's recommendation. There is no doubt in any member's mind about the validity of investigating particular cases, and also to make sure the recommendations are implemented as well.

In previous estimates I signalled this problem to the former Solicitor General to make sure an annual report was going to be tabled in the Legislature with all the recommendations forthcoming by the coroner's office. It seems the former Solicitor General—for his own reasons of which I am not aware—didn't take into consideration such a proposal.

On the other hand we don't want to create some sort of bureaucracy and a lot of work for the ministry as well. I guess we should be concerned about the minister holding two portfolios. But I think an annual report should be tabled in the Legislature and then it would be up to the individual members to give full consideration to all the recommendations made available through the annual report. We can make inquiry through the coroner's office as to whether or not certain recommendations have been implemented. If they were not implemented, then at least we could pursue the issue either by using the floor of the Legislature or by getting in touch with the appropriate departments where the recommendations were referred to.

I don't think the Solicitor General has any objection to making public all the recommendations which are collected by the coroner's office. I think that is a concrete proposal to be taken into account.

Mr. Chairman: The minister has noted your comments, Mr. Lupusella.

Mr. Foulds: I just have a couple of questions I'd like to raise about coroners' inquests, particularly the one that is at present going on in northwestern Ontario with regard to the tragic forest fire last August.

I just have a couple of questions of principle that I want to ask. I'm not asking specific questions about that inquest. By the way, are inquests sub judice?

Mr. Chairman: I'd have to rule it subjudice if your questioning would in any way influence the outcome of the inquest.

Mr. Foulds: No. It's just a question about procedure.

Mr. Chairman: As long as you stick to principles, I think we can steer clear of a sub judice ruling from the chair.

Mr. Foulds: Did I understand that transcripts are not always taken at coroners' inquests?

Dr. Cotnam: They are always taken.

Mr. Foulds: How widely are they distributed?

Hon. Mr. McMurtry: They are not necessarily typed up.

Dr. Cotnam: They are all recorded; but somebody has to order a transcript and pay for it, I think, $2.25 a page now or something like that. So it's quite an expensive thing if you wanted a 500-page inquest transcribed. But we don't transcribe them on a regular basis at all in our office. They are recorded and we keep the tapes. So if somebody wanted to order it six months later, they can order it through the court reporter but they have to pay for it.

Mr. Foulds: That procedure, with respect to this inquest, worries me because of the importance as it will affect a couple of fundamental programs in a government ministry.

It seems to me this is an inquest in which you should be prepared now to have transcripts available because not only will a government ministry have to be taking some action presumably as a result of the inquest. I think it should be clearly seen, by all members of the Legislature and the public, the evidence on which the coroner's jury's recommendations were based, and therefore the follow-up. So I would certainly put that as a very forceful request at this time.

Hon. Mr. McMurtry: I think there is a strong likelihood that the ministries involved will order a transcript of the—

Mr. Foulds: The important thing, I think, for someone like myself is being able to compare the coroner's inquest findings and the testimony given, which is open—I think that is one of the real beauties of a coroner's inquest—to be able to compare that testimony with the ministry investigation which all reports say is also going to be made public. I think there have to be some pretty important decisions made as a result of that inquest and the ministry's own internal investigation.

It has always puzzled me how the coroner's jury report has always seemed to be so quickly produced at the end of the testimony. How are those reports written?

Dr. Cotnam: Some of them aren't very quick. Sometimes it is one, two, three days that the jury sits out at the end considering the evidence. We have to lock them up in motels or hotels the same as any other jury until they arrive at their verdict and recommendations. A lot of them are out for 10 or 12 hours; this is common.

Mr. Foulds: My experience of helping to write a select committee report indicates that's fairly quick. Do they have available to them a professional writer or anything like that?

Hon. Mr. McMurtry: No.

Mr. Foulds: They do it on their own.

Dr. Cotnam: They do it on their own. I think they're absorbing the evidence as they go along and they're formulating some things in their own minds. Once all the evidence is in and the summations have been done by counsel, the crown attorney and the coroner, they already have a lot of this stuff in their own minds. So if they take 10 or 12 hours to write it down, I think they've formulated a lot of that during the presentation of the evidence.

[5:15]

Hon. Mr. McMurtry: They're not prohibited from taking notes either.

Dr. Cotnam: They're not prohibited although we don't advise that they all sit there and take notes or they will miss part of the evidence.

Hon. Mr. McMurtry: This is a problem with juries generally. Generally the practice in our country is not to encourage juries to take notes because of what Dr. Cotnam has said—the possibility of them missing some of the evidence. And juries may ask for evidence to be read back to them at the end of the trial.

Mr. Foulds: One final question: How is the decision made about where a coroner's jury report is circulated? Obviously the press gets it.

Hon. Mr. McMurtry: It's a public document.

Dr. Cotnam: It's a public document.

Mr. Foulds: So once it's published anybody can request a copy.

Hon. Mr. McMurtry: Yes.

Dr. Cotnam: Yes, anybody.

Mr. Foulds: Does it automatically go to anybody besides the Solicitor General?

Dr. Cotnam: Oh, yes. We have great lists in my office. It's one of my duties to follow up on recommendations of coroners' inquests. We've great lists prepared now, for each type of inquest, of the key people it should go to, whether at the provincial, municipal or federal level, or to a company—Hydro or whatever. The recommendations are sent to all those people plus the news media.

Mr. Hilton: What about the family of the deceased?

Dr. Cotnam: If the family want it, they can get it. Any other citizen who writes to us or any member who calls my office, we'll send him a copy of the verdict and recommendations. We want as wide a circulation as possible because it's a public safety thing and we hope the news media pick it up and promote it.

Mr. Foulds: That's all, Mr. Chairman, except that I would like to reiterate that point about the transcript being made public by the ministry.

Hon. Mr. McMurtry: I will inquire from the Ministry of Natural Resources as to what their intentions are, if you like.

Mr. Chairman: Any further speakers on vote 1702?

Mr. Lupusella: If we are going to proceed to the discussion, Mr. Chairman, I'm going to raise other topics in relation to this vote. If we are going to rise, then it's a completely different matter.

Mr. Chairman: No, I was planning on adjourning at 5:30. What we can deal with, though, for the sake of the minister and other members of the committee, is our agenda for next week which may be of interest to us members of the committee who are left.

If we adjourn at 5:30, we have approximately six hours left in these estimates. Wednesday morning we could finish these estimates. If we ask permission to sit Wednesday afternoon, we could start Justice policy and finish that on Thursday afternoon. That would give us Friday to deal with Bill 19 and some of the concerns rising out of it.

In the social development committee, in which this afternoon I've been dealing with some of our concerns about Bill 19 with the Minister of Colleges and Universities (Miss Stephenson), she has advised me that she will have her set of objectives, which we had requested, ready by next week. So presumably we would deal with those on Friday. This would allow us the following Wednesday for any private members' bills that the government may wish to have dealt with and that are still on the Order Paper assigned to our committee.

Mr. Ziemba: Do you wish to have our approval to ask for permission to sit next Wednesday afternoon?

Mr. Chairman: Yes, is the committee agreed?

Fine, we will ask permission of the House to sit next Wednesday afternoon and our agenda, which we have just agreed to, is that by Wednesday morning we will finish these estimates; Wednesday afternoon we will sit for Justice policy; Thursday we will sit for Justice policy and Friday we will deal with Bill 19.

Mr. Lupusella: On vote 1702, Mr. Chairman, to the minister, I would like to speak about fire safety services. Before getting into this argument, I'm sure the minister received a memorandum from the Thunder Bay professional firefighters. I can pinpoint the content of this resolution. I would like to know the position taken by the Solicitor General in relation to it.

The Firefighters Association of Thunder Bay sent a copy of this motion to the Solicitor General. They moved that:

"The fire prevention bureau in any fire department is an integral part of the fire protection that is provided to municipalities in the province of Ontario. Whereas any erosion of this vital service which is intrinsic to the operation of a fire department is detrimental to the safety of the citizens of any given community as well as the safety of the firefighters protecting the community, and whereas there is at this time an unsettled controversy with regard to what authority will be responsible for the enforcement of the Ontario Fire Code"—I'm not sure if you're aware of this resolution which was passed?

Hon. Mr. McMurtry: Yes, we've received similar resolutions from other associations.

Mr. Lupusella: Okay, I don't have to read the contents then.

Hon. Mr. McMurtry: I don't recall this specific resolution, but I assume this one has to deal with the administration of the Ontario Fire Code and the concern firefighters have

that they'll be swallowed up in municipal building and development departments.

We've assured them we don't want this to happen. We obviously recognize the importance of maintaining a separate profile for the firefighters of Ontario. I would certainly vigorously oppose any action that would in any way water down that profile or undermine the very vital discharge of their responsibilitites.

Mr. Lupusella: Did you receive such a request just from the Thunder Bay firefighters' association or did you receive others as well?

Hon. Mr. McMurtry: I don't recall the one that I received from Thunder Bay. The reason I don't recall it specifically is because I've discussed this issue with a number of representatives of firefighters' associations and chiefs' associations across the province. It's an issue of great concern to the firefighters. I know in discussions with my cabinet colleagues I've made our concerns apparent. We are very sensitive to their concerns and will continue to be so.

Mr. Lupusella: Is there any way to get a copy of your reply to the association? Is this feasible within the terms of such a request?

Hon. Mr. McMurtry: Yes, I'm sure we must have a reply somewhere. We can probably trace the letter, because I'm sure I've written a number of similar letters.

Mr. Foulds: I think there was a presentation as well by the Ontario Firefighters' Association, an umbrella organization, was there not?

Hon. Mr. McMurtry: Yes.

Mr. Foulds: That probably would be the generic answer we're looking for.

Mr. Hilton: There have been several deputations.

Mr. Lupusella: In relation to fire safety services, I note in the estimates there is an increase from the 1977-78 to 1978-79 fiscal years. Can the minister explain fire safety services? What kind of services are you providing under this item?

Hon. Mr. McMurtry: This is John Bateman, the fire marshal, who is with us now, Mr. Chairman.

Mr. Bateman: Essentially the fire safety services are the functions of the office of the fire marshal. Very generally and very briefly, I'll just sketch what our primary responsibilities are. In terms of manpower, I suppose our largest responsibility is investigating fires. We also run the Ontario Fire College at Gravenhurst which trains municipal fire department officers on a year-round basis.

We have a staff of professional engineers that are involved in consulting, approving building plans and so on for fire safety. We have fire services advisers around the province who work with fire departments, primarily smaller departments, in assisting them. We also inspect some dry hotels for compliance with the Hotel Fire Safety Act.

Mr. Lupusella: Thanks for this explanation. I would like to get into a program with which we dealt extensively during previous estimates. The first question which arises as a result of your compliance with the terms of reference—

Mr. Chairman: Mr. Lupusella, if you've got an extensive problem, I'd suggest that with four minutes to go, now is not the time to bring it up.

Mr. Lupusella: Okay, let me ask a few questions and then I can deal with the problem. There was a change of policy in your department in that you are going to comply with concrete investigation of fires if the loss is around $500,000. In the previous estimates it was around $250,000. May I ask the reason for this change?

Mr. Bateman: Yes, that change was implemented two years ago, I believe. The reason was there were just too many quarter-million-dollar fires for us to investigate with the staff we had. It was an arbitrary change. You can get a lot of quarter-million-dollar fires.

Mr. Foulds: That's a commentary on inflation.

Mr. Bateman: We changed it just to be realistic in attempting to investigate the fires we were able to. These are not necessarily arson-type fires. They're just large fires where we think we can learn something and the community and the province can benefit from what happened, what went wrong, if the building was destroyed.

Mr. Lupusella: Okay. Another problem that was emphasized during previous estimates was that your department has to deal with 25 investigators. I raise this concern before the Solicitor General to increase the number of investigators. They have a great deal of work to perform. It seems the number of fires in the province has been steadily increasing. I would like to know if the number of investigators has been increased since the previous estimates.

Mr. Bateman: Yes, we took on three investigators this spring. We're grateful for that.

Mr. Lupusella: What great generosity.

Mr. Foulds: I can't let this particular item go without mentioning the unconscious pun

and irony of Mr. Bateman's statement when he said he was responsible for inspecting "dry hotels" in terms of fire safety.

Mr. Chairman: I'm sure that William Temple, who used to be a member of this Legislature, will be very appreciative of your comments, Mr. Foulds.

Rather than have the coroner, who's a very busy gentleman, come back, I wonder if we can at least vote on some of these items, including the coroner's. That way he won't feel obliged to come back.

Mr. Lupusella: It's my understanding that Mr. Renwick would like to raise some problems in relation to this item, maybe tomorrow. The best way is to leave it.

Mr. Chairman: I guess Dr. Cotnam will be back with us tomorrow then. What about the forensic sciences?

Mr. Lupusella: I guess the best way is to leave this particular vote as it is, because we have other items we should be raising.

Mr. Chairman: I would remind the members that there are only six hours left, more or less, and that we have the Ontario Police Commission, the Ontario Police College and the Ontario Police Arbitration Commission, which is vote 1703. It's a vote that normally takes a considerable amount of debate. I hope members will govern themselves accordingly.

The committee adjourned at 5:30 p.m.

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No. J-28

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Solicitor General

Third Session, 31st Parliament
Thursday, December 6, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

THURSDAY, DECEMBER 6, 1979

The committee met at 3:51 p.m. in committee room 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL
(continued)

On vote 1702, public safety program:

Mr. Chairman: We are dealing with all five items under this vote, and I think I had recognized—

Mrs. Campbell: You weren't even here, and the NDP took up most of yesterday.

Mr. Chairman: I believe Mr. Ziemba, though, who was in the chair, had directed —I beg your pardon?

Mr. Ziemba: We didn't carry this vote.

Mr. Chairman: I was in the chair and I attempted to carry the vote. Mr. Lupusella was speaking at that time.

Mr. Kerrio: Isn't there something of a conflict if he sits in the chair?

Mrs. Campbell: I think you and I don't need to be here for much of these estimates. Don't get flip.

Mr. Chairman: The floor is yours, Mr. Lupusella, keeping in mind that we are trying to divide the time equally among our parties.

Mr. Lupusella: Thank you, Mr. Chairman, for keeping me under control. We were talking about the fire marshal and my particular concern was in relation to the number of investigations. It seems we are again faced with a serious problem which the public is greatly affected by. We are getting into an important issue of public safety as a result of the problem society is encountering these days.

We are all aware about the continuous increase in fires which are set across Ontario —Metropolitan Toronto in particular, and outside of Toronto—but we have only 25 investigators. How can this department function properly without giving more importance to increasing the number of investigators?

This is a widespread problem which has been going on for years. Since 1972, we have statistical data that shows the number of fires causing more than $250,000 in damage—the figure has now been changed to $500,000—has been greatly increasing.

Certain causes had been detected, like arson, but it's hard to believe people have been causing most of those fires. I am wondering if the minister is going to give more emphasis to this department by increasing the number of investigators. For years I have been calling for a task force to study this particular phenomenon and make sure that new forms of safety will be implemented to protect the public.

It seems the Solicitor General, according to articles in the newspapers, is in favour of the formation of this task force. If I am wrong maybe he can correct me.

The leader of the Liberal Party (Mr. S. Smith) has also been calling for this task force. I guess it is now time to co-ordinate all of the studies which exist here in Ontario, and even outside of Canada; the United States is greatly affected by this problem. I am wondering if something is going to be done, because the number of fires which are set in our province is a frightening phenomenon.

Hon. Mr. McMurtry: When you talk about a task force, we just had a very successful joint force operation in Belleville, into an arson ring down there. As a result of that joint force operation a number of charges have been laid. The idea of a task force is certainly not new. We frequently have joint activity that can be called a task force, or an investigation.

There is no question but that we need more investigators. There's no doubt about that. I can't commit the government to giving us the money for the additional investigators. All I can do is make a personal commitment to ask for the appropriate resources for the additional investigators.

As I have said in relation to the OPP, we are understaffed in certain areas of this ministry. We are understaffed in relation to the fire marshal's office in so far as investigators are concerned.

Mrs. Campbell: I would like to ascertain now whether the Solicitor General is in the position to give me a firm answer to my request for the transcript which I have asked

for four times from the two ministries. There was uncertainty yesterday as to whether it was available, and I would like to know.

Hon. Mr. McMurtry: We assume it is available, and I thought yesterday we said we were going to get you a copy of it.

Mrs. Campbell: No, I think there was some discussion as to whether it was available, and you thought it might have been in Mr. Takach's office, but that didn't answer the question as to whether it would find its way to my office. I would like to have a copy of that transcript.

Hon. Mr. McMurtry: We intend to get it unless it turns out—we will certainly let you know immediately if for some strange reason it is not available, but I expect it will be.

Mrs. Campbell: If it is in Mr. Takach's office, undoubtedly it must be available.

Hon. Mr. McMurtry: If it is, yes. I have not seen it in Mr. Takach's office, but I assume the information we have is correct.

Mr. Hilton: My understanding is that it came from the chief judge's office to Mr. Takach. We will find it and get it to you.

Mr. Kerrio: Mr. Minister, under item 3, has there been any discussion relating to any transfer of the fire marshal's code from the Ministry of the Solicitor General to the Ministry of Consumer and Commercial Relations?

Hon. Mr. McMurtry: Yes, Mr. Foulds was asking some questions yesterday afternoon about this.

Mr. Kerrio: I won't go into depth on that —I will be happy to look into the record—but is there some commitment or has some assessment or arrangement been made as to where that will rest ultimately?

Hon. Mr. McMurtry: No, there has been no final determination, except that I am on record as having stated I am opposed to any decision that would result in the local fire departments losing their profile and being amalgamated with some building and development department municipally.

Mr. Kerrio: I have quite strong feelings about the matter as it relates to that responsibility resting with the people who ultimately have to go to the scene and have a real responsible position in deciding what kind of protection should be built into the system.

[4:00]

Hon. Mr. McMurtry: Yes. We are certainly sensitive to the concerns of the firefighters about the province, and I have assured them that we are not going to see them submerged.

The only other aspect to this that is of concern and has to be worked out involves the individual citizen who wants a building permit. We think it is essential to maintain the profile of the firefighters, but I think it is desirable, if we can work it out somehow, that the individual has to go to only one office for that permit—what some people refer to as the one-window approach. If they have to go to two or more separate municipal offices it is possible to get conflicting views as to what is required. That is part of the overall concerns that have been expressed —to work out something that will allow a citizen to apply, municipally, to one office in relation to obtaining a building permit.

Mr. Kerrio: Certainly in keeping with hopes to eliminate some of the red tape as it relates to permits and other involvements in buildings, I certainly concur with that thinking. Maybe the mechanics of that can be resolved.

Hon. Mr. McMurtry: We think it can be resolved. It is a little bit of a complicating factor, that's all.

Mr. Lupusella: I have another question that relates to volunteer firefighters. Several communities have volunteer firefighters, particularly in northern Ontario where there are unorganized communities and it costs a fortune to have a fire department in place.

I have received a few letters about volunteer firefighters and maybe you can give me some direction on that. At the present time they can claim a deduction of $1,000 on their income tax. Is it more than $1,000, or less? I am not sure. Maybe you can confirm the figure.

Hon. Mr. McMurtry: I'm not sure.

An hon. member: It is $1,000.

Mr. Lupusella: Okay, so I am not mistaken about the figure. Volunteer firefighters have asked me if there was any possibility for your ministry to intercede and convey the message to the federal government in order to increase that deduction ceiling.

Surely $1,000 is not sufficient when one considers the type of work they are providing? They are called particularly to fight forest fires in northern Ontario. This is especially so during the summer; it is a frequent problem and there is a great use of volunteer firefighters.

Can the minister assure us that he is going to get in touch with the federal government to convey this concern? We know the necessity of their contribution in northern Ontario, especially in communities where they don't have the best operational tools. I think it is

important to make such a presentation to federal officials.

Hon. Mr. McMurtry: I am just advised—I wasn't aware of this before, Mr. Lupusella—that my predecessor, the Honourable George Kerr, wrote to the federal Minister of Revenue and asked for an increase but was turned down. I will write to the new Minister of Revenue and see what success we have.

Mr. Lupusella: Okay, would you please let me know the result?

Hon. Mr. McMurtry: Yes, we will.

Mr. Bradley: Mr. Chairman, this relates to safety and there was a discussion on safety yesterday. Mr. Young, having served on a committee dealing with highway safety, dwelt at length on some rather good points about highway safety and the enforcement of laws in the province and some innovations he might recommend to the Solicitor General.

There are a couple of observations I would like to make, however. Members dwelt for some time on the issue of speed being a primary factor in highway traffic accidents. While I would certainly concede that speed, particularly very excessive speed, plays a substantial role in highway traffic accidents, I would also suggest to the Attorney General that too slow a speed, looking at it from the other context, also plays a role in causing traffic accidents on our highways.

I am referring to the practice of many people to drive at speeds substantially below the speed limit. I won't say "forces" because that would be an unfair word to use; but it encourages those who have an appointment to keep—or those who want to move at least at the speed limit—to get into a passing situation. These drivers then might exceed the speed limit, or drive in a manner which would be rather dangerous. Perhaps this is just a personal observation, but I think much of this comes from our friends south of the border, who insist on sitting in the left lane doing 51 miles an hour. It may be a safe speed, but nevertheless it causes impatience.

That is one area where I think the police forces of Ontario might well be encouraged to look at those people who cause accidents.

Hon. Mr. McMurtry: There is a section in the Highway Traffic Act in relation to excessively slow drivers.

Mr. Bradley: One has to wonder how much that is enforced though. I recognize it is there, but I doubt whether it is enforced.

The second point I want to raise is not your responsibility, but you might have noticed the annoyance of the Minister of Transportation and Communications (Mr. Snow) when I raised this matter in the House. Crews are continually on the highways, sometimes at peak traffic times and sometimes just during the day. The traffic line is very long, particularly on the Queen Elizabeth Way, which I am sure the minister is familiar with, and I guess sections of 401 would fall into the same category. The tempers of the drivers are tested by this continual channeling into one area because of routine maintenance—10 people out there with a broom doing heaven knows what.

The natural reaction of many drivers is to speed up to make up the time. I am not saying there is an easy solution to this. I know the Solicitor General uses the term, "there are no simple solutions," and I would agree with him. I wonder if he would discuss that with the Minister of Transportation and Communications, and point that out as being a factor in contributing to the annoyance of drivers and therefore probably causing an increase in speed.

Would he also consider, just so that we don't inflame the public—I think the Ontario Provincial Police do an excellent job; I compliment them, and I want that on the record before I say what I am going to say. Would the minister also ask them not to sit just past the construction site—where everybody starts to speed up again to perhaps make up the time—and gather in customers? It gives people the mistaken notion that they are after revenue instead of the enforcement of safety standards. I am sure our police force would have only the safety standards in mind, not revenue; but the public could get the wrong idea.

Hon. Mr. McMurtry: We have senior officers of the Ontario Provincial Police here, Mr. Bradley, and I am sure they will certainly benefit by hearing your concerns first hand. We will pass on those concerns once again to the Minister of Transportation and Communications. I think we all agree it helps to breed impatience; I suppose it has something to do with the age we live in.

I must admit I have often thought while trying to negotiate my way through the city of Toronto, that the traffic engineers in the city and Metro have conspired, particularly since we cancelled the Spadina Expressway, to plug up every major thoroughfare with construction. I am sure all of us who have to travel north and south feel that from time to time.

Mrs. Campbell: It is the Metro traffic engineers' conspiracy, not the city.

Hon. Mr. McMurtry: I hope this will not suffer too much in the era of constraints, but the condition of our highways in Ontario generally is the envy of people from many other jurisdictions. It is this frequent maintenance that enables us to enjoy good highways. The Minister of Transportation and Communications is more concerned that his budget may not enable him to maintain the high quality of highways. In any event, we will again pass on your concerns.

Mr. Bradley: A second matter of public safety revolves around a question that is rather topical. The member for Simcoe Centre (Mr. G. Taylor) who referred to you as the minister responsible for disasters in the province, asked a question concerning public events. If you covered this yesterday after I left let me know and I won't pursue it. But he asked essentially whether what happened in Cincinnati could happen in Ontario.

I am wondering if there is any general policy, through the Ontario Provincial Police or the Ontario Police Commission, which deals with this matter. Is there something at the police colleges which would deal with this matter of public events? I think, for instance, of a similar situation at CNE stadium which could have been serious. It was handled well so it didn't happen. But do you have a magic formula that can be used to avoid this kind of situation? I am not just saying rock concerts—I guess they are a prime example but at other events too —but is there a policy that would assure people we wouldn't have such an event happen in this province? Is there some special policy that has made it successful? Or are we just lucky?

Hon. Mr. McMurtry: No, I think our municipal officials are generally pretty sensitive to this type of problem in so far as public events are concerned. Normally there are a large number of officers on hand to keep crowd control. I think if our police forces—both municipal and provincial—err in any way it is on the side of safety, and that is the way it should be. I don't think this would happen in Ontario, because our police are very conscious of what can happen in a situation such as that. Crowd control is a matter that is given high priority by all of our major police forces.

Mrs. Campbell: In reading the reports—I am not doubting what the Solicitor General has said about the police forces in any way—it seemed to me the major problem in that case came from the lack of designation of seats. I don't know what a police force can do if there is a rush for seats and people have been in line for ages. I just point it out to you, not to dispute what you have said, Mr. Solicitor General. If that is the root cause, then perhaps sharing police costs is something that should be looked at as we proceed to negotiate with these promoters. Perhaps that could be a deterrent to that sort of activity. I may be wrong, but that was the interpretation I had.

[4:15]

Hon. Mr. McMurtry: It is a matter of concern to all police forces. Courses in crowd control are taught at the Ontario Police College. Mr. Shaun MacGrath, who is one of the deputy commissioners of our Ontario Police Commission and has particular responsibilities in relation to the police college at Aylmer, is with us this afternoon. As a matter of fact, he and I will be at the police college tomorrow afternoon and this is certainly something we will be talking about.

What we may learn here as a result of that tragedy in Cincinnati—we think it is given a high priority but we can always learn and must learn from the unhappy experiences elsewhere. I hope we would do so, to assure the public that such a tragedy would not happen here.

Mr. Kerrio: I would like to just go back one step. This may be a difficult question to answer in a sense—

Hon. Mr. McMurtry: Excuse me, I should say Mr. MacGrath is vice-chairman of the Ontario Police Commission. I think I used the term deputy commissioner. He is a commissioner and vice-chairman, Ontario Police Commission.

Mr. Kerrio: My question relates to highway safety in the matter of some of these big rigs we see on the road. The question I wanted to raise was whether there has been any kind of substantial incidence of truck involvement as it relates to accidents. I have a distinct feeling, and I think many people share this feeling with me, that truckers as individuals have tremendous respect on the highways and are cautious, good drivers. It appears to me the rigs are getting better, because the speeds are the same as cars in many instances, but just from casual observation there always seems to be a big truck involved in major accidents.

Is there an assessment made of how they should travel in our multilane highways as it relates to tailgating? Also, I wonder whether the radios they carry now really disadvantage the enforcement officers in remote areas. How able are the truckers with their two-way radios to do what they will under the watchful eye of the officers? We talked about

fuzzbusters to slow people down, but I do a lot of travelling in the north and there seems to be a great deal of difference between how they handle themselves when there is a cruiser in sight, and how at other times those transports roar down the highways with tremendous loads. If the drivers ever had to hit the brake suddenly there would obviously be an accident.

Is there any kind of research that would tell us if the incidence is up—maybe I'm wrong—and whether truckers are now getting communication systems that would subvert the policemen?

Hon. Mr. McMurtry: It is interesting that you raise this, Mr. Kerrio, because I raised some of these issues at the annual meeting of the Ontario Trucking Association several weeks ago. The chairman of our committee was there on that occasion.

I think it would be helpful if you were to make your own views known in this respect to that association, because I rather sense that some of them felt a little aggrieved when I suggested that the reputation for being knights of the roads that the trucking industry seemed to enjoy for so many years was changing somewhat; at least that perception, judging by the correspondence that we receive, the Ontario Provincial Police receive and indeed the Ministry of Transportation and Communications receives.

Unfortunately the Ontario Trucking Association represents only about 11 per cent of the truckers in the field and they tend to be the more responsible members. They maintain that much of this problem is caused by what they refer to as the "gipsies" on the highway. There is some question as to whether our law enforcement is adequate in relation to people who are driving without PCV licences.

MTC keeps statistics in relation to the types of vehicle involved in accidents and these statistics would indicate that truckers are not involved in a higher percentage of accidents than the operators of the average motor vehicle. However, I agree with you that many of the public have the perception that truckers are becoming involved in a higher percentage of accidents. Part of this is the result of the media coverage that is given to a large rig that rolls over and is involved in an accident. It is likely to end up on the front page of the newspaper, or on television, whereas an equally tragic crash will not get the same attention.

Mr. Chairman: There are better visual effects.

Hon. Mr. McMurtry: So there is a bit of a problem that way. My own personal view is that this is a greater problem. I think I'm correct in saying the Ontario Provincial Police have suggested we might return to the differential in the speed limit between trucks and other vehicles. At the present time I think this is viewed as impractical by the Ministry of Transportation and Communications. These are issues that we have to continually address ourselves to.

I spoke yesterday of the formation of the Ontario Traffic Safety Council for more effective law enforcement on the highway. It's under the chairmanship of Deputy Commissioner Jim Erskine of the OPP, who is with us this afternoon. This has been on our agenda, and we have had a delegation from the Ontario Trucking Association. Quite frankly, we are looking at the possibility of higher fines or greater loss of points for individuals who disobey the rules of the road while operating the larger vehicles that represent a greater risk to the public if they are involved in an accident.

This, needless to say, is a matter of some controversy in the industry, but we are concerned about it, although again, as I said a few moments ago, the figures kept by MTC do not indicate that they are involved in a greater percentage of accidents.

Mr. Chairman: One of the things some of the members may not know is that the Ontario Trucking Association does have a safety committee, and if any of its members are seen by any member of the public doing something that you consider to be a violation of good driving standards, a report to them ends up in a file being issued and the personnel director or the traffic manager of that particular company is informed so that he understands what his particular drivers are doing on the road. That at least acts as some kind of check on some of the people who are operating under that part of the legitimate trucking movement.

Hon. Mr. McMurtry: I might just add something to what the chairman has stated. Another matter I think we should be looking at—and I would be very interested to have the views of your committee, Mr. Chairman, and this is an administrative problem as well as representing your problem generally—is whether we should encourage police forces to report to the employer convictions of drivers for highway traffic infractions.

The employers tell me—I heard this the other night at another motor vehicle safety association which is made up of some of these fleet owners—they would like to know when their drivers are convicted of an offence under the Highway Traffic Act. On most occasions they never hear about it. The

police generally take the attitude that it's perhaps unfair to the individual to report a conviction to the owner as opposed to the fact that it is reported and recorded by MTC.

Mr. Chairman: My understanding is that for $3 anyone can get a driver's record from MTC, so any company can periodically check on its drivers without any problem.

Hon. Mr. McMurtry: I thought that was the case too. Again, I intend to have the answer to this shortly, because that was my understanding, although we were advised by an MTC official who happened to be at this meeting the other night that this was not so.

Mr. Chairman: I just spoke to the minister the other day on that because some people feel that a waiver granting permission should be issued if the information is to be given out, particularly to insurance companies. This particular constituent argued on civil liberties grounds. He could understand that an insurance company might rightfully ask for the waiver, or an employer as a condition of employment might ask for periodic waivers, but he didn't feel it should simply be sent out to anybody who has $3. I don't know the information as yet.

Mr. Hilton: Mr. Chairman, Mr. Takach was good enough to bring to me just now the transcript on the Laurence Bulpit matter.

Hon. Mr. McMurtry: We should have a copy of this.

Mr. Hilton: It is the only one we have. We got it from Chief Judge Hayes.

Hon. Mr. McMurtry: Excuse me for just a moment. Mr. Takach, could I see you for a moment please?

Mr. Chairman: Mr. Renwick is next on my list and I believe he wished to ask some questions on the item 4, coroners' investigations and inquests.

Mr. Renwick: Mr. Chairman, I appreciate the courtesy in your holding the matter so that I could make some brief comments. I really don't have questions so much as I want to let my colleagues on the committee and the Solicitor General know, and establish for the record, the extreme concern which I had and continue to have about—

Hon. Mr. McMurtry: Excuse me. Mrs. Campbell, Mr. Takach would like you to have this copy with his personal compliments.

Mrs. Campbell: Thank you, Mr. Takach.

Mr. Kerrio: Did he autograph it?

Mr. Chairman: You can carry on, Mr. Renwick.

Mr. Renwick: I will start over again, Mr. Chairman. I want to let my colleagues on the committee and the Solicitor General know the continuing serious disagreement which I have with the Solicitor General about his understanding of the Coroners Act in Ontario.

I do not intend or anticipate that this is the place in which there should be some legal discussion about whether I am right or whether the Attorney General or the Solicitor General is right, because I believe he must have been involved in both capacities in the decision which I quarrel with and which I believe is incorrect. I am not interested in the particular instance, but I am interested in what will happen to the Coroners Act if the Solicitor General and Attorney General persists in his interpretation of that act.

I speak, as best I can, divorced from my legal training, and as a person who believes that the basis of law in this country as it is expressed in the statutes of the province is the English language. I therefore want to just briefly put with the committee as exhibits—and so that it will be available to the Solicitor General and the Attorney General and his advisers during the course of this winter to at least review—the matters which I want to raise in order that there will be no misunderstanding in the future. There is no recourse for me to take this matter before the courts. If there were a recourse available to me as a matter of standing I would have pursued that course. The Coroners Act, 1972, which is available, subject to the amendments in the regulations, is the basis on which I am making my comments.

[4:30]

We all recall the tragic death by police homicide on Sunday, August 26, of Mr. Albert Johnson in his home on Manchester Avenue in Toronto. Assuming that the Attorney General or the Solicitor General would pursue the course which he did pursue with respect to the police investigations of the matter, I awaited a decision by a coroner under the Coroners Act to decide that an inquest was necessary. When the Solicitor General or Attorney General stated that there would be no inquest at least for some considerable time in the future, I wrote to him on August 29 a letter which I released publicly at that time. I would like to file that with the committee, if it is in order.

Mrs. Campbell: Have you copies for all members?

Mr. Renwick: I am going to ask that copies be made available. The Attorney General responded to me on August 30. I will ignore

the invalid arguments, invalid since the time of Aristotle at least, with respect to the ad hominem remarks made by the Attorney General in it, and try to relate only and solely to the substance of the matter.

In response to that letter I wrote to the Attorney General and Solicitor General on September 4, having reviewed his letter and again having reviewed the Coroners Act in deference to his comments. I considered the other matters set out in his letter, I stated that I remainded in profound disagreement with him, and I called upon him to ensure compliance with the provisions of the Coroners Act. I would ask that that matter be made available to the committee as an exhibit.

For the consideration of my colleagues—not at this time but so that they will have an opportunity perhaps to consider the matter—as well as the advisers to the minister in both the ministries, I first of all refer to the provisions of the Interpretation Act, RSO 1970, chapter 225, section 30, item 34, where the word "shall" is referred to, and it is stated, "'shall' be construed as imperative."

My second matter is that I refer those interested in this profound disagreement that I have with the Solicitor General and Attorney General to all of the authoritative dictionaries of the English language with respect to the meaning of the word "imperative." Those are available for consideration.

There are many such quotations which can be found scattered through all of the authoritative texts with respect to the construction of statutes, and I have referred to a couple here: "It may then be safely stated as an established rule of construction that an act of parliament shall be read according to the ordinary and grammatical sense of the words, unless being so read would be absurd or inconsistent with the declared intention of the Legislature to be collected from the rest of the act."

I would also refer, if I may, to Craies on Statute Law, sixth edition, 1963, at page 159: "In approaching the question of interpreting words used in statutes it is necessary to keep in mind the presumption that words in a statute are strictly and correctly used. As Lord Hewart, Chief Justice, said, 'It ought to be the rule and we are glad to think it is the rule that words are used in an act of parliament correctly and exactly and not loosely and inexactly. Upon those who assert that the rule has been broken, the burden of establishing their proposition lies heavily and they can discharge it only by pointing to something in the context which goes to show that the loose and inexact meaning is to be preferred.'"

Mr. Chairman, I would draw this to the attention of the consideration of the minister and his advisers in both ministries. Section 17 of the Coroners Act, 1972, provides that, "Where the coroner determines that an inquest is necessary he shall issue his warrant for an inquest and shall forthwith transmit to the chief coroner, and a copy to the crown attorney, a signed statement setting forth briefly the results of the investigation and the grounds upon which he determined that an inquest should be held."

Section 17(a) of the act further provides that, "When making a determination whether an inquest is necessary or unnecessary, the coroner shall have regard to whether the holding of an inquest would serve the public interest, and without restricting the generality of the foregoing shall consider (a) whether the matters described in clauses (a) to (e) of section 25(1) are known"—I do not intend to quote them here; for the record they are available in the statute—"(b) the desirability of the public being fully informed of the circumstances of the death through an inquest and (c) the likelihood that the jury on an inquest might make useful recommendations directed to the avoidance of death in similar circumstances.

"Once the determination in compliance with section 17(a) is made, the coroner must prepare, sign and submit a statement form five, setting forth the results of the investigation and the grounds upon which"—and I underline the words—"the coroner determined that an inquest should be held." In other words, the statement is a record of the matters determined by the coroner requiring a hearing. The sections are quite clear that the determination whether to call an inquest and the grounds upon which the determination is made are exclusively the authority and function of the coroner. There is no provision in the act for the delegation to others of that decision-making process.

The Ontario Court of Appeal decision of Leather versus Doolittle Company Limited, 1928, 2 Dominion Law Reports at page 805 is authority for the proposition that "quasi-judicial functions conferred by statute cannot be delegated to a third party unless the Legislature permits such a delegation by expressly so providing in the legislation. Any decision made or act taken by a third party without statutory authority in the exercise of that function would be a nullity.

"The function required of a coroner under section 17 and 17(a) in determining whether

an inquest is to be held is quasijudicial in nature and is not permitted by the Legislature to be delegated to any other person. Where a quasijudicial function is vested by statute, those functions may not be exercised in such a way which is no more than a rubber stamp of the actions and decisions of others." I refer to the case re Geddes versus Metropolitan Toronto Board of Commissioners of Police, 30 Dominion Law Reports, third series, page 547 and following.

I appreciate the opportunity of putting those matters on the record. So far as I know I have received no reply from the Attorney General or the Solicitor General to my letter of September 4. I am very much concerned, and I would hope the Solicitor General would make available to this committee the full file with respect to the coroner who was seized of the responsibility in this matter, in order that I would have an opportunity to review that file to determine whether or not the quasijudicial function of the coroner in this matter was usurped in any way or affected in any way by any comments made by the Solicitor General or the Attorney General or any of their decisions.

My point is simple and has two branches. One is, the word "shall" is imperative. The word "imperative" means, for practical purposes, an order that carries with it a peremptory sense about the obligation required.

The second point to my argument is that with the introduction into the act of section 17(a), the determination of the coroner becomes a quasijudicial function which cannot be interfered with in any way, shape or form and which can be performed only by the coroner, who has the obligation under the statute to do that.

Any of the proceedings of the Coroners Act are separate, distinct and self-contained, and are not to be affected by any other parallel activities which in the ordinary course of the transaction of the business of police investigation into these matters and all of those other matters must take their course in the ordinary way without interfering with the coroner. The statute which was passed in this assembly by people, the great majority of whom are not lawyers, clearly indicated that if at any time there was an interface between the proceedings of the crown in criminal matters there was ample provision for an inquest, if it were taking place when charges were laid, to be stayed and not to continue without special proceedings. There are also other provisions related to that interface, which were carefully considered by the Legislature and carried out.

I simply draw the attention of the committee and of the minister to what I consider to be a serious misunderstanding of what the Legislature had to say when it passed that Coroners Act. I leave it in the hope and in the wish that during the cool winter evenings which are likely to come upon us, the minister and his advisers will consider in the best of faith what I have said in order that we can clarify that the Coroners Act is a self-contained code of procedure, that the duties of the coroner may not be interfered with in any way by the Solicitor General or by the Attorney General regardless of whether he thinks the decisions or the proceedings of the coroner should be delayed or affected in any way.

I do not believe that if I asked each member of the assembly to read section 17(a) and section 17 with respect to the provisions of the Coroners Act there would be any dissent to the proposition that the death of Albert Johnson and the circumstances of his death met fully those requirements, that the word "shall" was peremptory and required a determination. I would have very serious concern if there were a single coroner in the service of this government who, faced with those circumstances and being fully apprised of his duty under that act as a quasijudicial function which he had to perform, could come to any conclusion other than that there should have been an inquest, and that that inquest should have proceeded until such time when, if it were necessary for a stay in those proceedings to take place, that stay would have taken place.

I solicit from the Attorney General and Solicitor General a statement that he will give consideration to the matters I have raised and he will consider the plain English meaning of the statute passed by this Legislature and that he will sit back and say to himself, "Is this not a circumstance when we, the assembly, did not ask for the intervention of sophisticated legal interpretations or reconciliations of other duties and responsibilities which the police or the Attorney General may have in those circumstances?" Otherwise there is no point, in my view, of us having a charade about inquests in this province and we might as well simply refer all deaths in such circumstances to the medical profession for an examination with respect to the physical causes of death and not the other circumstances surrounding it.

I have no intention to do other than to place that before my colleagues on the committee and to ask the Attorney General and Solicitor General to consider it.

[4:45]

Hon. Mr. McMurtry: I just want to make a preliminary statement. I will accept Mr. Renwick's suggestion and not respond at this time, because there is some disagreement between Mr. Renwick and not only me but all of the senior law officers of the crown as to the interpretation of the Coroners Act in this regard.

I just want to make the point that in my view there was no interference with the functioning of the coroner under the Coroners Act. In any event, Mr. Renwick has made a fairly lengthy statement for the record. We will certainly take it under advisement and will respond, and Mr. Renwick will have a response.

It was the view of the senior law officers that given the obvious disagreement between Mr. Renwick and me and the law officers of the crown with respect to the interpretation of the Coroners Act a further response, having already responded, would probably not have been wise, given the sensitivity of the investigation and the charges that were laid. In any event, I can assure Mr. Renwick that he will have a further response from me before the cool winter evenings are replaced by the balmy spring evenings which we all look forward to.

Mrs. Campbell: Mr. Chairman, in view of the fact that this matter has been raised in this committee and in view of the fact that I believe Mr. Renwick has made a rather compelling argument, I would very much like to have the benefit of the response of the minister to Mr. Renwick for my own purposes. I would leave the matter there.

I think when a matter is raised publicly in a committee it is appropriate that all the committee members be kept abreast of the developments. I would ask for that to be done in this case.

Hon. Mr. McMurtry: Yes.

Mr. Chairman: I'll ask the Solicitor General to send a copy—

Mr. Renwick: It certainly would be my hope that that be done, because I would hope there would be some opportunity in due course for the committee to consider what I believe to be the peremptory nature of that obligation and the quasijudicial nature of the function to be performed and the whole of that proceeding. If the disagreement can be resolved only by an amendment to the Coroners Act, I would anticipate introducing an amendment to the assembly in such a way that would establish the position I have placed before the committee.

Hon. Mr. McMurtry: Yes, we'll certainly see that the clerk gets a copy of the replies. Certainly Mrs. Campbell's interest is noted.

Mr. Chairman: I would remind committee members that in very rough calculations we have approximately four and a half hours left in these estimates. We're on vote 1702. Are there any further questions?

Mrs. Campbell: Not having had the benefit of the briefing book, because I'm not the critic, I wonder if the Attorney General could speak briefly on the matter of the fifth item, forensic pathology, having in mind, I suppose, the question that I posed on the item on the centre and the degree to which findings under the fifth item would be available in any specific case to members of the Legislature.

Mr. Hilton: They are available.

Mrs. Campbell: They are available? I shall pursue it.

Vote 1702 agreed to.

On vote 1703, supervision of police forces program:

Mr. Chairman: Since these items are so interconnected, I'll accept debate or questions on any one of the items under this vote. Mr. Kerrio, would you start off on this vote?

Mr. Lupusella: Mr. Chairman—

Mr. Chairman: I'm sorry, the normal procedure is that the official opposition critic gets an opportunity, followed by the NDP critic.

Mr. Lupusella: Before getting to the vote, I have another question in relation to grants to the Ontario Society for the Prevention of Cruelty to Animals.

Mr. Chairman: That was on the previous vote. It will require unanimous consent for you to go back to that vote. Do we have that consent?

Mr. Williams: No.

Mr. Chairman: We do not have that consent so I suggest, Mr. Lupusella, that perhaps the only way in which you can handle that—

Mr. Lupusella: The Solicitor General gave me an assurance that—

Mr. Ziemba: On a point of order: I find it rather disturbs me when I see this. This committee has always worked well together. We've never denied a member of this committee permission to speak on something we felt strongly about.

Mr. Williams: It's not true. You've done it to me.

Mr. Ziemba: I'm not going to reply to that. I'm very upset the way things are happening in this place altogether—what happened this afternoon and what's happening here. If that's the way the Tories want to

play, I'm going to call a quorum call. I don't see a quorum, Mr. Chairman.

Mrs. Campbell: You're being irascible too.

Mr. Ziemba: If that's the way you want to play it, I'll play it the same way.

Mrs. Campbell: We need a count; let's get on with it.

Mr. Ziemba: I have nothing against the Solicitor General. It's these back-benchers of yours who are just making life intolerable around this place.

Mr. Chairman: Since a member of the committee has asked for a quorum count, I have made that count. We do not have a quorum. We will wait for 20 minutes and if there is not a quorum in this committee I will have to adjourn the committee.

Mr. Kerrio: I'd like to put it on the record that the New Democratic Party doesn't have its members here.

Hon. Mr. McMurtry: I don't understand these complex procedural matters. I was concerned about a question and an answer. I didn't think you were getting totally accurate information, Mrs. Campbell. As I understand it, these records are not open to any member of the public who might inquire. They have to be properly obtained according to the procedures under the act. I just thought you might have been misled a little bit and I just wanted to clarify that.

Mrs. Campbell: I appreciate that. I am inquiring, though, as a member of the public. Am I being relegated to that position or do I have another position is what I was asking.

An hon. member: You are a member of the public.

Mrs. Campbell: I am a member of the public. I see.

Hon. Mr. McMurtry: I knew there was a section in the act that dealt with this and that is why I was concerned about—

Mrs. Campbell: I have not looked at the act to find out, I must confess.

Mr. Chairman: Mr. Lupusella, while the recorders are going, although we are not technically in session, I suppose if you ask a question of the minister he might be able to answer you at the present time while we are waiting for the quorum.

Mrs. Campbell: Is it possible for me to get an answer?

Mr. Chairman: You can do the same thing, Mrs. Campbell.

Mrs. Campbell: Oh, well, let Mr. Lupusella interfere in the midst of a conversation.

Mr. Chairman: I am sorry, Mrs. Campbell. I thought you had received your answer.

Mrs. Campbell: No, I had not. We were in the midst of a discussion and you called Mr. Lupusella's question. Go ahead.

Mr. Chairman: I did not call Mr. Lupusella's question. I am waiting to get a quorum.

Mr. Williams: It is all right for them to ask for it but when we ask for those kinds of privileges they just turn a deaf ear.

Mr. Ziemba: If you remember, John, in that recording thing—

Mr. Williams: If you want me to get the Hansard out to show you, I will do it.

Mr. Ziemba: —I let you go on for hours that day. If that is the way you guys want to play it, we can play it the same way. Everywhere I go I am going to call for a quorum.

Mr. Williams: You have got to learn it is a two-way street, my friend.

Interjection.

[5:00]

Mr. Chairman: Mr. Kerrio will you start your questioning on vote 1702?

Mr. Kerrio: Yes.

Hon. Mr. McMurtry: Could I raise a point of order, Mr. Chairman? I think there is something on the record that might have mislead Mrs. Campbell as to what is available in relation to autopsies and post-mortem examinations.

Section 16 of the Coroners Act deals with the record of investigation as follows:

"Every coroner shall keep a record of those cases reported in which an inquest has been determined to be unnecessary showing for each case the identity of the deceased and the coroner's findings of the facts as to who, when, where and by what means the deceased came by his death, including the relevant findings of the post-mortem examination and of any other examinations or analyses of the body carried out. Such information shall be available to the spouse, parent, children, brothers and sisters of the deceased and to his personal representative upon request."

Mrs. Campbell: It is just that in the case where a criminal charge has been laid and an inquest therefore did not follow, I wanted to know if that information was available from the forensic centre or from wherever the—

Hon. Mr. McMurtry: Where a criminal charge is laid?

Mrs. Campbell: —criminal charge is laid. The matter does not come, as I understand

it—it didn't in that case and won't in this case—under the jurisdiction of the coroner because the charge was laid virtually forthwith. How does one apply to obtain that information? It would not, I should think, be vested with the coroner. I don't know where it would be. That is what I am trying to find out and how I can get a report.

Hon. Mr. McMurtry: If there is a criminal charge it would be made available at the appropriate time. For example, it would be made available to the defence counsel; it probably wouldn't be made public until it was given in evidence at the trial.

Mrs. Campbell: It is difficult. The evidence is not always as clear as a report might be. I think that is the problem. However, I take it then my recourse will be to examine the transcript very thoroughly to see—

Hon. Mr. McMurtry: No, no, if you have an individual case—

Mrs. Campbell: I have already drawn a case to your attention and it is a case that—

Hon. Mr. McMurtry: You have drawn a number of cases to my attention. Which one?

Mrs. Campbell: Quite recently. I would rather not, in the circumstances of the matter, make it further known but you were going to investigate the matter and get back to me as of just the other day. I think I only spoke to you once the other day on a matter of a judgement following a report from Mr. Walter Williston, QC.

Hon. Mr. McMurtry: Oh, yes. In a matter such as that, I certainly am quite prepared to make information known to members of the Legislature, particularly a justice critic, by reason of their role as members of the Legislature. Sometimes it has to be done in confidence—

Mrs. Campbell: Exactly and that is why I am not—

Hon. Mr. McMurtry: —and we are often quite prepared to do that.

Mrs. Campbell: Fine. If I can have that sort of undertaking that would be splendid. Thank you.

Mr. Chairman: Vote 1703, now that the minister has had an opportunity to correct the records. Mr. Kerrio.

Mr. Kerrio: Thank you, Mr. Chairman. Mr. Minister, I would like to refer to an area here that relates to the Ontario Police College and training. You might help me. It relates to high-speed chases. When we raise the question on the floor of the Legislature it seems to be incumbent on the person raising the question to suggest alternatives. These relate to training and what I think might be just as important, province-wide radio and equipment to improve the ability of police in a high-speed chase when it comes to cordoning off an area or doing something as an alternative.

There has been some discussion about it but I don't think there really has been any resolution. It would appear that one of the real problems is that chases across various areas of jurisdiction limit the ability to really do anything more than give minor radio directions. I am wondering if in the upgrading of that type of assessment of that whole situation is there anything being done? Is it a problem of financing? Is it reasonable to suggest that it would help police and maybe prevent some high-speed chases if we had modern equipment and training?

Hon. Mr. McMurtry: The radio systems of various police forces have been constantly upgraded. In relation to high-speed chases that involve more than one jurisdiction and the facilities police forces have to communicate with one another, the Ontario Police Commissioner maintains what is referred to as a common channel in order that this type of communication can be carried out.

Mr. Kerrio: Do you feel somewhat restricted, though, in the radio involvement?

Hon. Mr. McMurtry: I know we are in the process of trying to upgrade the OPP radio network. It is hard for me to be overly specific. Perhaps Mr. McGrath or my deputy would like to deal with this.

There is a varying level of quality, as I understand it. We have had cases in the past, for example, where I must admit I wasn't very happy with what was available to the police. I am thinking of the shooting of a police officer in Collingwood as an example, a case where I wasn't satisfied with our network.

Mr. Kerr: We made special grants to the municipalities for the municipal police forces to upgrade their communications systems in recent years.

Mr. Hilton: These bring them in line with the common channel. Is that not so. Mr. Kerr?

Mr. Kerr: Yes, and to the same level as the OPP in the area.

Hon. Mr. McMurtry: But this facility is present. I can't really answer myself as to the extent to which it could be improved. I think this is what you are interested in.

Mr. Kerrio: That is right. Let's relate it to some of the most modern equipment that is in other jurisdictions. How does ours com-

pare? Is there a need for improvement as it crosses various boundaries?

Mr. MacGrath: Mr. Chairman, as far as I am aware the system in force in Ontario is second to none. There haven't been any great criticisms at all.

Mr. Kerrio: The reason I raise the question is I want to satisfy myself that maybe that is not the alternative, if you are convinced that is the case.

Mr. Lupusella: I would like to raise a few concerns under the Ontario Police College item and I would also like to pursue the issue raised by the Liberal member in relation to police car chases on the highway.

I understand the position expressed by the Solicitor General in the Legislature when the issue was raised by the leader of the Liberal Party. I understand that when an offence has been committed the police have to comply with the Police Act to make sure the person who committed an offence, or whom they have reason to believe committed an offence, is going to be brought before the judicial process. I understand and I share this concern. I am sure that at the Ontario Police College techniques are taught to police officers in relation to this item. I wonder if it is possible to get us the kind of techniques taught to police officers at the Ontario Police College.

Mr. MacGrath: Traffic law and procedures are taught at the Ontario Police College in Aylmer. Twenty-three periods are devoted to traffic law, traffic control two periods, pursuing, stopping, searching vehicles four periods. There isn't any such thing as a police driver training school at the Ontario Police College. What we can impart to the recruits and other police officers attending is strictly confined to the classroom.

Mr. Lupusella: One would think you should have it. How can the police officer follow the directives in the formal memoranda which are sent to all police detachments without getting the proper training in order that those directives can be properly implemented? I can see where the Ontario Police College can play an important role in giving the proper training to all police officers enrolled there. I visited the Ontario Police College and I don't think in the 15 weeks police trainees spend there they are able to absorb all the material which is provided.

I understand the Ontario Provincial Police receives a different type of program—are the headquarters on Jarvis Street?

Hon. Mr. McMurtry: No, no.

Mr. Lupusella: Oh, they are using the same facilities?

Hon. Mr. McMurtry: As I understand it, they all go to the Ontario Police College. They do have their own college as well. Metro Toronto has its own college, but there is a basic course that is given to all recruits at the Ontario Police College in Aylmer.

Mr. Lupusella: If we see deficiencies and inefficiency in the system—

Hon. Mr. McMurtry: What do you mean by inefficiency? Let me just make this one point so you will understand—

[5:15]

Mr. Lupusella: Okay, I can clarify my statement, which is not on the same line. I'm talking about clear guidelines which should be taught at the Ontario Police College. There is nothing in place there which takes into consideration the dangers, and the techniques which the police officers are supposed to implement when they are involved in these particular situations. In other words, as far as I'm concerned, even though they receive memoranda from time to time—

Hon. Mr. McMurtry: No, I think you misunderstood the answer. That's what I was trying to point out to you.

Mr. Lupusella: I heard there is no particular course.

Hon. Mr. McMurtry: No, I'd like to clarify it for you, because you obviously misunderstood. They do receive classroom instruction in high-speed pursuit driving. They're not just handed a memorandum. They receive instruction.

What we said—and perhaps we didn't make it clear enough—is that we don't have a race track, for example, at the Ontario Police College, or the necessary paved surface, where these techniques such as high-speed driving are carried out in a practical way. Each police force has its own in-service driving techniques.

I must admit I have some concern as to the extent to which we should be training police officers to be acrobats when it comes to driving vehicles on the highway. I may be wrong. It's a very personal view.

Mrs. Campbell: They're stunt drivers, aren't they, rather than acrobats?

Hon. Mr. McMurtry: It's the same thing as far as I'm concerned. I don't want to be encouraging a lot of cowboy driving on the highways. I think police officers are taught to drive prudently. Sometimes they have to drive at high speed. If we get a course where we emphasize some of the techniques we see on television and some of those cowboys

who are glorified on the US networks we're just going to be massacring people on the highways.

We want to teach our police officers that they have to be good, skilful drivers and occasionally drive at high speeds, but not to take silly risks. That's the sort of balancing act we have to maintain, in my view.

Mr. Lupusella: I heard the answer which was given to me in the Legislature today, that the formation of a task force to review the whole operation of the Ontario Police College is not appropriate because you are reviewing the operation from time to time. Can you elaborate on that?

Hon. Mr. McMurtry: Certain aspects of the operation are under continual review. Mr. MacGrath spends a great deal of his time as vice-chairman of the Ontario Police Commission at the college reviewing the curriculum. Of course, he is in communication with a number of people. He established for the first time, a year or so ago, a direct link between the police college and the University of Western Ontario, which I think is very important.

Again, I only cite that as an example to assure you we're not sitting still when it comes to improving police training. I indicated we didn't see any significant deficiencies in police training, but on the other hand we recognize it can be improved. There is no such thing as perfection.

Mr. Lupusella: I understand there is always room for improvement. In 1972 a task force studied the efficiency of policing in the province and produced a report in relation to the recommendations which were made, because the terms of reference of the task force permitted an overall review of the total operation in relation to policing. Most of their recommendations were implemented. The principle and the spirit of the task force was of great importance, to pinpoint the inefficiency of the system at the time when the task force was called.

I agree there is always room for improvement. We were faced with a particular situation in the summer when the police force in Metropolitan Toronto came under attack by the public and the media on the use of firearms. The Solicitor General is taking a look at this problem.

Why do we have to wait until problems develop among the public when a task force to study the effectiveness of the Ontario Police College can be of great benefit to the public and the police officers when they are receiving the training? I don't see why the Solicitor General is rejecting the idea of calling a task force which gives us and your ministry an overall review of what is going on at the Ontario Police College. I really don't see the reason why you shouldn't call one.

Hon. Mr. McMurtry: At the moment, I don't see the reason why we should. We have an advisory body that is part of the police college operation and it will be meeting in early January. I announced a task force to review one aspect of police training, as I mentioned in the Legislature, but I must admit I have difficulty with the idea of setting up a task force unless you can pinpoint specific problem areas.

Mr. Lupusella: I have been telling you, and I am sure you are aware of the problems because the problems have been raised in the past by members of the Legislature and by widespread public concern over particular incidents which involved police officers—the shooting incidents and the manuals which guide police officers in the law, and in psychology and sociology in relation to techniques which should be used in dealing with ethnic communities.

For the sake of effectiveness in the Ontario Police College—as I stated before, it is important to give the right training to the police officers—we need an overall study about the whole operation, and the study is going to pinpoint the inefficiency of the system which has appeared from time to time in relation to particular incidents of which we are all aware.

I guess that is the best way to approach the problem. That is how I can foresee room for improvement. This task force might pinpoint the problems in relation to the two officers involved in the investigation of the Lorenz case. We know there is also another aspect of manuals which are used by the police officers at the Ontario Police College. I would be concerned, even though the whole issue is going to be under revision, to find out if the methods and techniques are within the meaning of the law. We are just touching upon a particular aspect of the problem. My suggestion is made for the sake of efficiency and to make sure that police officers are going to get the right training at the Ontario Police College, and I hope the Solicitor General is going to take this task force into consideration.

Again I want to make particular reference to the task force which was called in 1972. It was a beautiful report. Just by reading it you can easily find out the role of the police in our society. It was a good report, and many of the recommendations have been implemented. The Ontario Police College is

an important factor in the efficiency of police officers. It is like schools in our society: the more you improve the education system the more benefits will go to the students in our society and to society as a whole. If money is going to be spent on that task force, I think it will be very well spent.

I hope you will consider this situation. I think it is important, because you are already under pressure to implement certain modifications in order that the police force can meets its challenging role in our society. The task force can pinpoint this problem instead of waiting until the situation deteriorates to the point that public pressure is going to convince you there is some need of doing it.

Hon. Mr. McMurtry: I just want to tell you something, Mr. Lupusella, and I am sure you recognize it. I think we probably have in this province the finest police training that exists anywhere in the western world. We have task forces visiting our province on a regular basis to learn what we have done. I just don't think we have to reinvent the wheel. I have mentioned to you that we are continually reviewing aspects of police training.

The matter of the police relationships with minority groups, visible minorities in particular, the changing society and the challenges—the special challenges and different challenges, changing challenges that are related thereto—prompted me to appoint a task force to not only study police education in respect to the relationship of the police forces with the minority groups, but also the whole issue of police recruiting among minority groups, promotional procedures and opportunities in police forces generally for members of minority groups.

It's a very important—I'm sure you will agree—task force, headed up by Dr. Reva Gerstein, and it is a three-person commission. That is one aspect. In the light of public concern over a number of deaths as a result of the discharge of police firearms, I indicated we were reviewing all of our procedures, not because I see any deficiencies but because I think the public must be reassured that the procedures are proper. Again, we can always learn from these reviews.

The concern expressed and some of the press reports in respect to what police methods may be used in relation to obtaining statements from suspects, such as were referred to earlier in the context to the Barrie trial, led me to give you an undertaking this afternoon that the police manual would be reviewed and improved, if possible. Again, I have not read the transcript of that trial but I certainly intend to. Part of the transcript, I gather, was delivered to my desk this afternoon.

[5:30]

We are not averse to reviewing our educational facilities continually, but at this point I don't see a need for a task force to engage in a total review of police education in this province. I would personally prefer to concentrate our resources in certain specific areas, and I have included some of them. I am not rejecting your suggestion out of hand to say that it doesn't make any sense. I am not suggesting that. It is always helpful to have intelligent people reviewing police procedures because of the basic and fundamental importance of those procedures to a free society.

Mr. Chairman: Thank you, Mr. Lupusella. Mr. Kerr.

Mr. Lupusella: I want to complete my—

Mr. Chairman: I can put you back on the list, Mr. Lupusella. You have spent 20 minutes on that one item and I think in fairness to other members of the committee I must rotate.

Mr. Kerr: Just dealing with the point that Mr. Lupusella raised about police chases, as everybody knows, we had a recent very tragic event in Burlington which resulted in the death of a young man following a collision with a police cruiser. I think in that particular case there will be an inquest. Although the circumstances in each incident of this kind are different, I would think the recommendations of that jury would be very helpful to the police and to the police commission and to the minister.

I can recall when I was Solicitor General trying to do everything possible to upgrade the communications system and the equipment that each municipal force had so that it would not be necessary for one cruiser to be engaged alone in apprehending a speeder, for example, and the officer could in fact call on his colleagues as a result of proper up-to-date communication and radio systems to indicate generally the direction of the lawbreaker or speeder, and in that way utilize other cruisers in the area, thereby stopping the vehicle in question.

I agree with Mr. Lupusella that it is a real problem, and yet at the same time it is important that people who are speeding, particularly in urban areas, are stopped and are charged.

On the other point that Mr. Lupusella made regarding the Ontario Police College, I think it is important to realize that the course at Aylmer is a basic training course.

It is mainly for new recruits and it teaches certain fundamentals of policing that are necessary for an officer to put on a uniform and engage in his day-to-day duties. Police training does not stop there. They are continuously taking refresher courses and there are the other institutions in the province, such as the Toronto school, available for continuous upgrading.

The only comment I would like to make is that I can recall a complaint of mine in visiting the college, that there seemed to be an absence of new recruits from my particular bailiwick. It was rare that I saw an officer with the flash on his shoulder indicating that he was a member of the Regional Municipality of Halton Police Force. I spoke to the chief about that and his complaint was that he couldn't afford to send the men to Aylmer; there would be a shortage on his force if a group of men went down and took the particular course.

I think it is absolutely essential that every police officer, early in his career as a cadet or a new recruit, completes that course. Some arrangement with the assistance either of the police commission or the ministry has to be made so that every one of those men receives that course early in his career. I realize some of them eventually get there but it is sometimes two and three years after they have been a member of the force and enforcing the particular statutes and the code within their jurisdictions.

That's the main point I would make now, that every officer receive that course early in his career, and also that there should be an opportunity for continuous upgrading and a refresher course, either at Aylmer or at some college in Toronto, for example.

Hon. Mr. McMurtry: My understanding is that all the regional forces and all but the very tiny municipal forces do send their new recruits to Aylmer. I gather, Mr. Kerr, there was a hiatus with Halton region for about two years. Perhaps your personal involvement terminated that hiatus, but it no longer exists. I know that quite apart from the basic training, as you know, there are also refresher courses, and a number of specialized courses are given to experienced police officers at Aylmer as well..

Mrs. Campbell: I would like to come at this from a little different direction if I may. I agree, and the Solicitor General may find it refreshing that I do agree with him, I wouldn't want to see our police officers being trained on the chase. The thing that I think bothers me is that in so many instances it appears to be a matter of a speeding vehicle, and I don't think the innocent victim is any more appreciative of being killed by a police vehicle than by the person who is speeding in the first place.

The other thing that really bothers me, and it has bothered me for a very long time, is that we do seem to have a greater propensity—and I would like to be corrected if I am wrong on it, it may be just a perception; I have no statistics—to pursue these matters where the offences are offences against property rather than offences against the person. I have always felt that surely we should put life somewhat ahead of property in our police work.

I don't know how the training is given in this kind of attitude, or if it is possible to develop a kind of recognition that in our society life or limb or persons really are more important than property matters. I am thinking of cases—they go back a long way, and I am thinking I am afraid more of Toronto than of the OPP; I don't come in contact with the OPP very regularly—where a robbery is committed, and it seems to be more important to pursue that matter in these high-speed chases than it is in a matter of a homicide or some other kind of offence. Is there a philosophy, something that is taught to a new recruit that goes to that kind of philosophical approach to police work?

I am speaking really in general terms but including the high-speed chase. It doesn't always start with a speeding vehicle. It sometimes starts with an incident such as a robbery, break-and-enter or whatever, and then it results in this kind of high-speed chase and in some cases the use of weapons to the point where an innocent person on the street may get hit in consequence. It's a combination of sometimes high speed, sometimes the use of weapons. People have been killed by police bullets in the course of a chase and they were not involved in the chase.

Hon. Mr. McMurtry: As I understand, in police training in this respect obviously, first of all, when it comes to high-speed chases or the use of firearms a paramount consideration is the safety of others, and in relation to a police chase the police as a rule should not engage in high-speed chases for a minor offence.

Again it depends on the circumstances, but the police officers are told continually when they are engaged in a hazardous activity with their vehicles or with their firearms that they are to give top priority to the safety of the innocent bystander and

that no apprehension is worth placing innocent citizens—

Mrs. Campbell: At risk.

Hon. Mr. McMurtry: —in unnecessary jeopardy. That philosophy as I understand it, is continually given to police officers throughout their careers. Again the difficulty of laying down—

Mrs. Campbell: The fine point.

Hon. Mr. McMurtry: —specific guidelines beyond the general philosophical statements and general principles, of course, is impossible because at some point police officers frequently have to make difficult judgement decisions when they have often very little time in which to do it.

Mrs. Campbell: In discussion, and again you will have to forgive me because it was with Metro police officers in the past and fairly recently, it seems to me that the officer is often confused by the two directions that he is given: (1) that he must pursue the offender diligently, et cetera, et cetera, et cetera; and (2) that he must, of course, take this safety factor into consideration.

I try to place myself in their position, and if I were in that position and I might be what amounts to almost court-martialed, it seems to me under present police procedure if I didn't do the thing, I would be more inclined to do it and hope to goodness that at least the offence would not get me into some disciplinary action for not pursuing. That seems to me to be the rub.

How do you put that message across clearly to young cadets, if that is the correct description? When are they at risk of disciplinary action by reason of not pursuing diligently? What protection do they have in trying to arrive at that kind of decision?

[5:45]

Hon. Mr. McMurtry: I am just concerned, Mrs. Campbell, about who would be in the best position to answer your question.

Mr. Hilton: Mr. MacGrath advised me, Mr. Minister, that there is no compulsion placed, so far as he is aware, by any police force on its officers to respond in any particular way. The judgement call is the judgement call of the officer in the light of all the circumstances. He is instructed that he should make those judgement calls based on certain common-sense basic principles: the gravity of the offence, the conditions—

Mrs. Campbell: It doesn't seem to me to be the way, at least in the Metro area, that the officers themselves view their terms of reference, if you like.

Mr. Hilton: May I, to my detriment, Mrs. Campbell, say I got very annoyed at a person driving in our parking garage today and I ran after him and chased him and stopped him. I regretted my hasty action at the time. Perhaps I might have been killed if the car chase came around one of the other bends. Perhaps the officer, after doing certain things, might regret doing what he did, but in the sense of duty and doing what he thinks is right, he may overreact, but he is instructed to use his common sense. I should have been instructed to use mine, too.

Mrs. Campbell: Thank you. I don't think it answers my question.

Mr. Chairman: When did you say you appear in court?

Mrs. Campbell: On the attitudes of the police forces today, is it really essential for the protection of the public that we should have what appears to be a somewhat militaristic approach to law enforcement by police officers? What is your view about that sort of training in our society today?

Hon. Mr. McMurtry: I would like to respond to that as the person primarily responsible for policing in this province. In my view this quasimilitary approach is necessary because of a number of factors.

First of all, police officers are often asked to act in very difficult emergency situations where appropriate chain of command and accountability and discipline are of the utmost importance. There are certain similarities between the circumstances faced by police officers and those faced by the military in time of warfare, given certain similar emergencies.

So far as it relates to proper chain of command, a respect for the chain of command, disciplined reaction and accountability, I think if those are militaristic characteristics, they are appropriate. Some people regard those as militaristic characteristics and if they are, then I say they are appropriate to policing.

Obviously, again, it's a question of common sense; not to get carried away, to use a colloquial term.

Mrs. Campbell: I'm a little sorry that the Solicitor General referred to any kind of comparison between any army at war and the police, because I would have hoped that the enemy is not the public at large. I do not think they perceive that. I am not accepting that.

Hon. Mr. McMurtry: Unfortunately, the enemies to society are not only present in wartime.

Mrs. Campbell: Of course, you are right.

Mr. Chairman: Do you have a supplementary on that, Mr. Ziemba?

Mr. Ziemba: How do you square that with your earlier position that you don't want police trained to be cowboys learning to be rodeo riders, and yet on the other hand you do want police to be trained after a military fashion so as to deal with the possibility of war? Aren't you encouraging a kind of warfare attitude?

Hon. Mr. McMurtry: No. I am talking about certain aspects of behaviour that are regarded as militaristic. For example, if you have a situation where there is a gun battle that involves numerous individuals, obviously a tightly organized, disciplined military-like approach is required, given a situation of emergency. If you are dealing with widespread civil disorder, a mob scene, then those attributes are important for the protection of society, for the protection of all of society.

While perhaps some people would prefer to avoid the use of military comparisons, there obviously are similar traits. I never thought the forces that defended us during the Second World War were fighting us; I thought they were defending us. So I don't understand your reluctance to suggest that police have similar responsibilities to protect the public, defend the rights of the public.

Mr. Ziemba: I couldn't disagree with you more. That is what is causing a lot of problems in the police, the business of covering up and—how do you say it?—joining forces against outsiders investigating, and all the rest of that kind of—

Hon. Mr. McMurtry: What do you mean "covering up"?

Mr. Ziemba: Whenever we have heard about any move for an outside person to investigate a certain police action there is a hue and cry about that. It is this whole business of "protect your brother" that is promoted in the army and has been extended into the police force.

Hon. Mr. McMurtry: I don't know to what extent it is promoted in the army. I really don't know; I have never been a member of a military force. I'm afraid I can't assist you. But obviously there are certain human traits that are possessed by police officers as well as the rest of us. Police officers, for example, are often subjected to wildly irresponsible and false allegations. This is a frequent occurrence.

Mr. Foulds: That's not like the military. That's quite contrary.

Hon. Mr. McMurtry: You were not listening to what I was saying. I was saying that I have no experience in the military so I can't assist Mr. Ziemba in talking—

Mr. Foulds: Then how can you say they should be like the military?

Mr. Chairman: I will give you an opportunity to ask a supplementary after the minister has finished his answer. Please don't interrupt him while he is responding to Mr. Ziemba.

Hon. Mr. McMurtry: In view of the very large number of simply false accusations that are made against police officers, obviously a tendency develops to protect one another against these false allegations. What we are concerned about, of course, is that this does not spill over to circumstances where police have acted unfairly or irresponsibly.

Again, the police forces are always concerned to weed out bad police officers. I can tell you, when it comes to police corruption, for example, the intensity with which police forces investigate their own members who are suspected of police corruption and therefore obviously doing great damage to their police department, reaches what some police officers would say is even a degree of ferocity. So in that context to suggest that the police close ranks and protect their own just isn't borne out by the facts. Unfortunately, a certain number of police officers are prosecuted and go to jail every year, just as a certain number of lawyers and other individuals in society do.

Mr. Kerrio: Legislators?

Hon. Mr. McMurtry: Every group has its bad apples.

In the area of civilian complaints in police matters, the problem is that when police officers are so often subject to patently false complaints, sometimes we recognize there is not always the degree of sensitivity we would like to see in separating the false complaints from the small percentage that are justified. Police forces are forever restructuring their procedures to react more effectively in that situation.

But when we tell police officers, as some people want to tell police forces, "You cannot be trusted to police yourselves. You cannot be trusted to investigate allegations against members of your own force," in my view that is demonstrating to the police in this province a certain basic lack of trust that can not only demoralize police officers but would lead to substantial undermining of the effectiveness of policing in this province. When it comes to increased civilian review of complaint procedures and so forth, we have acknowledged in certain areas that

this is appropriate. We are going to be introducing legislation, probably next week, with respect to Metropolitan Toronto.

We are talking in very general terms, but there are a lot of interests to be balanced. Paramount in the bottom line in all of these matters is my concern for the public interest and how the public interest is going to be best protected. I don't believe for one moment that the public interest is going to be best protected by telling police forces they no longer can be trusted to investigate themselves. I just want to make that point clear.

Mr. Chairman: I think we have come a long way from the original question. Mr. Foulds, if you have a supplementary on the original question I will let you ask that.

Mr. Kerrio: It is six of the clock.

Mr. Chairman: It is not six of the clock yet. You have 50 seconds left.

Mr. Foulds: The similarity between police and the military, I take some exception to, simply because in a military force you are opposing another general population. Surely in practical terms a police officer is not opposing the general population in which he operates?

Hon. Mr. McMurtry: I agree with that.

Mr. Foulds: He is opposing a specific constituency, or criminal. I think there is a danger if you apply the military parallel too much. That's when you get the flak that spreads out to the population generally.

Hon. Mr. McMurtry: I agree with you. If I created a different impression, I didn't mean to.

Mr. Chairman: We stand adjourned until tomorrow after orders, at which time we have one very uncontroversial private bill followed by the minister's estimates.

Mrs. Campbell: Did we think that the Solicitor General should be present for that uncontroversial bill so that he may suffer some of the tortures the rest of us are suffering with his horrible bills of the other night?

Mr. Chairman: Adjourned.

The committee adjourned at 6 p.m.

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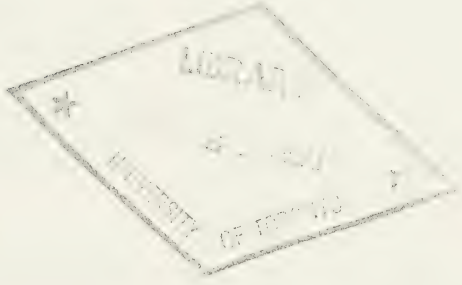
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No. J-29

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Solicitor General



Third Session, 31st Parliament
Friday, December 7, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

The committee met at 11:40 a.m. in room 151.

After other business:

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL
(continued)

On vote 1703, supervision of police forces program:

Mr. Chairman: When we adjourned, Mrs. Campbell had the floor and Mr. Foulds was next on my list.

Mrs. Campbell: I have two further questions on the Ontario Police College. One of them had to do with weapons instruction and what type of weapon is used, because there is all sorts of concern in the public as to the type of bullets—you'll have to forgive me, I know nothing about guns and I'm happy to remain ignorant on this subject—there is some concern that the police indeed do use weapons which are not—

Hon. Mr. McMurtry: Sorry, my chair's falling apart.

Mrs. Campbell: Oh, it's just the chair. The man responsible for disaster is having trouble with his chair.

Mr. Chairman: Actually the chair is the one that I had. I put it in Mr. Hilton's place and he switched it over to you, so I hope you remember that the next time he asks for a raise.

[11:45]

Mrs. Campbell: Could we know what weapons are issued to the forces and what type of bullets are issued?

Hon. Mr. McMurtry: I was wondering to what extent Mr. MacGrath is in a position to answer some of the technical questions. The standard issue is a .38-calibre revolver. There have been a number of questions asked about rubber bullets—

Mrs. Campbell: Dumdum bullets.

Hon. Mr. McMurtry: —that would be less lethal or something that would inject something into the system—

Mrs. Campbell: Dumdum bullets are more lethal.

Hon. Mr. McMurtry: —or suggestions that less lethal ammunition be used in order to stun the individual or some sort of instant injection like a dart-type of bullet, but there is no such bullet being perfected that would serve the purpose when a police officer is looking down the barrel of a gun that is held by somebody else. If you try to stun that individual—

Mrs. Campbell: Before he fires.

Hon. Mr. McMurtry: —in the process of stunning him you're going to have three or four bullets in your hide and, needless to say, we don't want to expose police officers to that risk.

Mrs. Campbell: In specific terms, I take it you're telling me the bullets which are used, and I don't know how to phrase it, are normal bullets for a .38 revolver. They are not in any sense a dumdum bullet.

Mr. MacGrath: No, Mrs. Campbell, they are not. They receive 35 hours of training in the use of that handgun.

Mrs. Campbell: Thirty-five hours?

Mr. MacGrath: I'm sorry, 35 sessions; 35 training sessions of 48 minutes each during their recruit-training period.

Mrs. Campbell: And that's considered enough? As I say, I know nothing about guns, but they horrify me to start with and I just wonder, with people who are new—and they are; they're cadets—is that considered sufficient training in police circles for the use of weapons?

Mr. MacGrath: Yes, it is, Mrs. Campbell.

Mrs. Campbell: I think I'd feel more comfortable if they had a little more, but I have no technical knowledge on the subject and I can't refute it. I'm glad to have it on the record.

The other matter, which flows out of several incidents, is, first of all, is a police officer instructed that he is not to adjudicate a matter? It seems to me that some of the things which have happened in the use of any illegal or criminal activity on the part of the police flows from the determination, almost, by the police that somebody is in fact guilty. Therefore, you use any kinds of means, or any kinds of means are open to

you to obtain evidence to convict. At least that's in the minds, I think, of many people in the public.

Hon. Mr. McMurtry: I hope it's not in the minds of many people, but again I can't make that judgement. I am concerned obviously about some of the press reports that are emanating out of Barrie that might give credence to that perception.

I indicated to Mr. Lupusella yesterday that I would personally be reviewing the manual from the police college with my crown law officers. I have looked at it briefly. At this point I have looked at it again briefly and basically it sets out a number of legal issues in relation to interrogation of a suspect. I think the handbook does state, and I think in fairly clear terms—for a lawyer, but I am not satisfied at this moment that they are set out in clear enough terms for the average police officer; I don't mean any disrespect, it's just that some of these legal issues are very complicated—that it is fundamental to all of these concerns that the conduct of an officer should not bring the administration of justice into disrepute.

Mrs. Campbell: Oh, doesn't it go beyond that?

Hon. Mr. McMurtry: No, no—

Mrs. Campbell: I'm sorry.

Hon. Mr. McMurtry: Regardless of the narrow technical areas, for example, there is authority that says a witness or a suspect may be shown a statement that is not correct in order to elucidate the truth, and courts have admitted such statements, as long as the statement in no way can be shown, or the process holds out no hope of gain on the one hand—in other words it does not represent an inducement on the one hand—or a threat on the other. If you are familiar with these cases—and perhaps you are; it would appear you may not be—

Mrs. Campbell: I am not.

Hon. Mr. McMurtry: That is basically what the courts of this province have said with respect to an interrogation. It is a highly technical area. But as a general guiding principle, and I think it is a good one, the administration of justice is not to be brought into disrepute or disrespect, quite apart from what might appear to be permitted by the technicalities of the law, and they should always be aware of this underlying principle.

So what the police officer certainly is being invited to demonstrate is a certain amount of sound judgement in that respect. We are not talking about breaking the law.

Mrs. Campbell: Well, I am talking about just that.

Hon. Mr. McMurtry: There is nothing in that handbook that I am aware of—and as I say, I haven't had a chance to peruse it—that would suggest that police officers are permitted to break the law in order to catch a suspect, regardless of how guilty they may honestly believe in their own minds that person to be.

Mrs. Campbell: I think that is the problem.

Hon. Mr. McMurtry: We are talking about conduct that does not represent the breaking of the law but conduct that might be regarded simply in basic terms as unfair.

Mrs. Campbell: I have a certain unease because it seems to me that obviously in exercising judgement, certainly in some cases, a police officer does really adjudicate. The police officer determines in his own mind that somebody is guilty of an offence and then proceeds by any means available to prove it. That is what bothers me.

Hon. Mr. McMurtry: I just totally reject that concept as being one that is accepted by responsible police officers.

Mrs. Campbell: I think part of my unease is that at some time, I believe in June, I drew to the Solicitor—no, I guess it was the Attorney—General's attention a certain article with a certain statement made by a police officer as to her conduct. The Solicitor General was to get back to me and I have not heard anything about it.

It seemed to me there were many issues in that article. I would draw to his attention that I went over in the House to present him with the article as it appeared in the Sun newspaper. I have had no further communication from him on that. But it seemed to me in that case there could at least be some prima facie evidence. I am leaving aside the very matter because it is under appeal, as I understand it. There is a law which provides security against harassment or entrapment and it seemed to me in that case there was at least some prima facie evidence in the words of the officer herself as to the conduct of that matter by her.

It bothers me. That article seemed clearly to indicate to me that she had made a determination as to the guilt of a person and proceeded to move in order to get the kind of evidence she wished. I think I agree that an officer ought not to bring discredit to the administration of justice system. I accept that. But my concerns go beyond it. I believe there is only one group in our community who should make adjudication. I do not

think adjudication should come during an investigative process. I would like to put it to the Solicitor General that he might review the manual from that point of view and not just from the sort of technical point of view of bringing disrespect or discredit.

I also wonder if it is possible for us to have from the minister at some point the actual statement made by the crown in that case, as well as by the police in the Barrie case. I am not pressing it at this moment for very obvious reasons, but I would not like the Solicitor General to forget we would like to have that so we ourselves can have some determination as to what was said by both police officers and by the crown in that case.

What does the manual say? What are the terms of the manual the Solicitor General feels are not as clear to those who don't have a legal education? It would have to start with the community if you have your cadets drawn from the community at large. Could we have the actual wording that is causing some pressure for review?

Hon. Mr. McMurtry: I did not say there was any.

Mrs. Campbell: No. I am trying to put it so I do not put words in your mouth. You said that you were reviewing—

Hon. Mr. McMurtry: I said I will be reviewing.

Mrs. Campbell: Or you will be reviewing. I wonder if then we might be privy to the actual wording of the manual so we too might review it for ourselves?

Hon. Mr. McMurtry: Yes, I think we can certainly obtain copies of the manual.

Mrs. Campbell: Thank you. I think Mr. Renwick wanted to get in on a supplementary here. I have one other question. I'll put it and if it breaks his train of thought, then I won't—

[12:00]

Mr. Renwick: No, please go ahead.

Mrs. Campbell: The other thing is the role of the Ontario Police Commission. Do they influence the appointment of police chiefs, for example, in this province or in any part of it? There have been certain rather serious allegations in one case and I would just like to know what influence, if any, they exert.

Hon. Mr. McMurtry: I understand there is a selection committee established which may or may not have a representative of the Ontario Police Commission on it to interview candidates for a position. Then I think the recommendations come from this selection committee—which is made up of police officers basically, I understand—to the local police commission. Perhaps you can enlarge on that, Mr. MacGrath.

Mr. MacGrath: Mr. Chairman, the Ontario Police Commission is frequently asked by the local board of police commissioners to assist with the selection of a short list, usually three chiefs who have applied or deputy chiefs or senior officers. The final selection is made by the board. The Ontario Police Commission has never recommended—not to my knowledge—a particular applicant. The final selection is made by the local board.

We have had two appointments made recently—within the last six months or five months—in two smaller forces and the local board of police commissioners never approached us at all.

Mrs. Campbell: I asked because in our society there is a lot of idle talk. There were allegations made, particularly with reference to the appointment of one Mr. Brown. The allegations indicated some influence by the Ontario Police Commission. You are stating to me categorically that is not so.

Mr. MacGrath: Not that I am aware of, Mrs. Campbell.

Mrs. Campbell: That does not help me very much.

Hon. Mr. McMurtry: Mr. MacGrath wasn't there at the time of this appointment.

Mrs. Campbell: I see. Is there anyone present who could advise us? There is a nod from over here.

Mr. Lee: That is categorically untrue.

Mrs. Campbell: I am glad to have it for the record, Mr. Minister.

Hon. Mr. McMurtry: I think one of Mr. Brown's allegations was—and I may be wrong—that the Ontario Police Commission was not enthusiastic about his appointment, in the initial stages.

Mrs. Campbell: We could all be wrong. I see. Fine.

Hon. Mr. McMurtry: I think that may be part of the proceedings that are going on now. But I could be mistaken about that.

Mrs. Campbell: That concludes my remarks.

Mr. Foulds: Mr. Chairman, I have considerable material that I would like to present in a public forum to the Solicitor General with regard to the use of the OPP in the Boise Cascade dispute. I found the statement he made in his opening remarks, to use his own phrase, "a crock of sheer nonsense." I believe that with the material that has been drawn to the Solicitor General's attention—do you want me to—

Mr. Chairman: No, The question that Mrs. Campbell raised was whether this would be better brought up under the next vote. I simply pointed out to her that a number of people have strayed and it is very difficult to enforce that kind of ruling on one person and not on the other.

Mr. Kerrio: Yes, the next vote.

Mr. Foulds: Yes.

Mrs. Campbell: I have strayed too.

Mr. Foulds: Considerable people have and that is one of the reasons why—

Mr. Chairman: As long as the appropriate staff people are here and the Attorney General is willing to go ahead with answering those questions, I would like to deal with it now.

Hon. Mr. McMurtry: I am just advised that one of the senior officers, Assistant Commissioner Lidstone, who was on site, is not here at the moment. The deputy commissioner who would have some information with respect to this matter is here. Perhaps we might inquire how much longer we are going to be on the vote involving the Ontario Police Commission.

Mr. Renwick: I have just a very short time. Even for me I think it won't be more than 10 minutes at the outside and maybe five or six minutes.

Hon. Mr. McMurtry: We might be better then to—

Mr. Foulds: I am quite in the committee's hands, Mr. Chairman. It is just that I think the matters I have to raise are about those public appointments, particularly in the—

Mrs. Campbell: I am not trying to cut it off. I just thought if we could get past this vote and then have the people here who can respond.

Mr. Chairman: How many members who wish to speak on this vote?

Mr. Lupusella: I have a few questions on the Ontario Police Commission, Mr. Chairman.

Mr. Chairman: What are a few questions, Mr. Lupusella? How much time are you likely to take?

Mr. Lupusella: The Solicitor General had indicated to this committee that we are going to deal with the content of the bill which is going o be introduced in the Legislature in relation to the citizens' complaint bureau. No?

Mr. Chairman: Could we agree then that by 12:30 we could carry this vote? Does Mr. Kerrio have some more questions?

Mrs. Campbell: I thought Mr. Renwick was on this vote, is he not?

Mr. Renwick: Yes.

Mr. Chairman: Mr. Renwick takes 10 minutes, then the balance to Mr. Lupusella and then we will pass the vote. Is that agreed, at 12:30 we will carry this?

Mrs. Campbell: We will deal with the vote.

Mr. Chairman: We will deal with the vote.

Mrs. Campbell: We are not saying we will pass it.

Mr. Renwick: Mr. Chairman, I am going to be brief because not all of these areas are ones which will be dealt with when the bill is introduced into the assembly with respect to the citizen review of police complaints. I understand that bill is almost at the point where it will be available to us. I spoke with the government House leader yesterday and I understand it is now in the hands of legislative counsel for finalization.

Hon. Mr. McMurtry: I am going to try to get a synopsis of the bill to your respective caucuses on Monday.

Mr. Renwick: That would be very helpful. Some of my remarks this morning, and I am going to make them extremely brief, are simply to help when the debate occurs in the assembly. I am making them so that you will be aware of the kind of documentation I have been looking at so we are not at cross-purposes about what it has said.

I have been concerned for a long time, as has my colleague, the member for Lakeshore (Mr. Lawlor)—who of course has been away on Commonwealth Parliamentary Association business—with the lack of implementation of the regulatory authority contained in the Police Act. The power to pass the regulations is quite broad and could, if in regulations, have allayed many of our concerns over a period of time. That will be part of the comments I will make at the time of second reading and elsewhere in the bill.

I just want to draw a couple of documents to the attention of the ministry in case they do not have them. The subcommission on the prevention of discrimination and protection of minorities of the United Nations Economic Social and Cultural Organization has been working on a draft body of principles for the protection of all persons under any form of detention or imprisonment. That draft, which I obtained from the Canadian ambassador to the United Nations, is getting to the point in the pro-

cess where I think the draft is relatively final, although the processes for its final adoption and implementation may not be there. If you do not have a copy of it, perhaps I could let you have it and you could make a copy of it for your own purposes and return it to me. I would be glad to do that.

The second document I have obtained and which is a fascinating document is the report of the committee of inquiry into police interrogation procedures in Northern Ireland. I don't know whether you have that. It was chaired by His Honour Judge Bennett. It is, in English parlance, a royal commission and it was presented on February 16 and tabled in Parliament in March of this year. I don't know whether you have had an opportunity to see this or not.

Hon. Mr. McMurtry: I haven't seen it.

Mr. Renwick: It has a number of matters touching on a great number of the points that Mrs. Campbell was touching upon. It touches upon the judges' roles; it touches upon the points you make about the position of our courts in respect of the admissibility of evidence—all of that kind of question—as well as the concerns which have been expressed about the methods of interrogation used by the Royal Ulster Constabulary. This, of course, is a very highly regarded police force operating under extremely difficult circumstances.

I am not suggesting for a moment that any of the things that have occurred in here occur in Ontario, but I am very much concerned that there is a lack of an understood code of police interrogation procedures. I am very much concerned, as I am sure the minister has been aware for a long time, about what happens from the time a person is detained until the time he appears in court for adjudication of the matter on which he has been charged.

By coincidence I happened to get two of these so you are quite welcome to this one if you would be interested in having it.

Hon. Mr. McMurtry: Thank you very much.

Mr. Renwick: Rather than me belabouring the ministry about the failures of it, I want to try to stimulate the ministry to move towards the publication by way of regulation of the outlines of the protections available to persons. I'm referring to the period from the moment they are detained by the police until the time they appear in the courts, including all of the questions related to the technical problems about the admissibility, or otherwise, of the evidence concerned in it.

There undoubtedly is a great deal of other information. You gave me quite a bit of information the other day that was available to you. Some of those matters touch upon the question of complaints against the police. Because I consider the debate on second reading, and presumably the committee hearings on this next bill which is coming in, to be of the utmost importance, I don't want to find ourselves talking at cross-purposes if we could avoid it.

I don't want to ask this next question unless the matter is completed. Is the matter of the two police officers still under consideration in the sense that it is, in the rules of our assembly, sub judice in your view? If it is I can raise the questions at some later time. The matter is not of immediate importance to me. [12:15]

Hon. Mr. McMurtry: Counsel for both police officers have indicated their intention to appeal. I don't think that precludes us dealing with that.

Mr. Renwick: No. My question was going to be a relatively specific one and not a general one. I would prefer not to ask it until the matter is finally disposed of.

Thank you, Mr. Chairman. I don't think there is any point in my proceeding with the matters which are of concern to me because I think they can, within fairly broad limits, be dealt with on second reading of the bill or in committee when we come to deal with the civilian complaints matter. A goodly part of it is not just the civilian complaint of incivility which occurs on the street; it is all of the matters related to the time of the original detention until the appearance in the court.

I believe in most cases the province is protected against falling into very poor habits because of the fashionable influence of the media in the so-called police shows that you see from time to time. One of my favourites at the present time is, if I can pronounce it correctly, Eischied. It comes on on Friday evening at 10 o'clock and if ever there was a chief of detectives in New York who skates close to the law, disguised as the public good, it is he. The public good is always foremost, regardless of how he happens to deal with the people with whom he comes in contact. He's a very charming guy, Joe Don Miller, or whatever his name is. I recommend it to you before we discuss this bill.

Hon. Mr. McMurtry: I have expressed on other occasions my concern that the entertainment media are encouraging the vigilante approach to policing. A film I never saw, but the reviews certainly horrified me, was Walking Tall and it may involve the same actor. It promotes the idea that because the administration of justice doesn't work effectively,

police officers therefore have to take the law into their own hands. I want to make it clear that type of media encouragement—when one looks at some of the films and television programs—distresses me greatly.

Mr. Lupusella: I had a question in relation to the citizens complaint bureau but the Solicitor General stated he is going to give us a copy of the bill on Monday. Right?

Hon. Mr. McMurtry: No, I said I would be giving you a synopsis of the legislation.

Mr. Lupusella: Okay.

Hon. Mr. McMurtry: There may not be very much practical difference, but I have some responsibilities to my own caucus in that regard.

Mr. Renwick: Perhaps if I can ask one last question. I would like to ask the Solicitor General if we have to go through the procedure of standing 20 members in order to put the bill out? Or will the minister put the bill out to one of the standing committees, presumably this committee?

Hon. Mr. McMurtry: It seems to me that if the opposition wants the bill to go out to committee that—

Mr. Renwick: We would certainly like it to go out.

Hon. Mr. McMurtry: —there is no purpose in us attempting to oppose that process, in my view.

Mr. Renwick: Could we just add on to that: When the bill is put out, would it be possible for us to start thinking about the committee sitting during the recess to have hearings with respect to that bill? Or would it be your intention to let the bill, presumably after second reading, simply lie there until the new session starts and reintroduce it? What are your thoughts, because it would have to be reintroduced?

Hon. Mr. McMurtry: We would like to get the legislation through. I suppose we were operating under the impression that the opposition parties might be so impressed with the legislation that it might be passed this session.

Mrs. Campbell: Have you had that experience in the past?

Mr. Renwick: That is always a possibility.

Hon. Mr. McMurtry: We hope that possibility will remain alive. In the event that does not happen, I certainly would like to see the process expedited. But as to what committee is available I guess I have to leave that to my House leader.

Mr. Renwick: Of course.

Mr. Kerrio: Mr. Chairman, following the discussion about interrogation and other areas of interest, I would like to raise this question with the minister. The one side of the question was ably put by my colleagues who are members of the bar. We also have people on the committee who are lay people.

But while I concur completely with their concern about interrogation and being fair with individuals who are brought into that position, do we give the same kind of thought to the police officer and to the whole administration of justice involvement in this modern age? Crime is gaining in sophistication, witnesses are intimidated, and crime itself has all kinds of advantages over the policemen.

How do we strike a balance there? I concur with their thinking as it relates to fairness on that person brought into the system. However, I do have some concern as a lay person, and I think many people out there have the same concern. Maybe that is why some of those foolish programs are so accepted. There is a great concern out there as well about this new involvement of people who are on the other side of the law gaining too much advantage. What do we do about striking the balance then? Is that a fair concern?

Hon. Mr. McMurtry: I think it is an overriding concern we all have. Obviously the balance is a very finely-tuned process. It has to be adjusted and readjusted on a continuing basis. Certainly, given the threat to the community that is posed by the criminal element, I have some difficulty with the approach that some people would advocate—that is that this is kind of some sort of sporting contest and there is some comment as to whether the police should be playing by the Marquis of Queensbury rules. I find it very difficult to generalize in this area.

Mr. Kerrio: I appreciate that.

Hon. Mr. McMurtry: Obviously, the police are dealing in many cases on a day-to-day basis with very vicious, cunning criminals, and obviously, they have to be a little cunning in return. But the line between being cunning and shrewd—

Mrs. Campbell: And criminality.

Hon. Mr. McMurtry: No, short of criminality. That is not the issue here; no one is suggesting they should be entitled to break the law. But the line that must be drawn between a cunning investigative police officer and one who uses tactics that brings the administration of justice into disrepute is not always an easy line to draw. It requires sound judgement on the part of the police

officer, given the circumstances. It's all very well for us to sit around here in somewhat of an ivory tower compared to what some of these police officers face on a day-to-day basis on the streets, and sort of sit in judgement. And yet that is part of our job.

Vote 1703 agreed to.

On vote 1704, management and support services program:

Mr. Chairman: Mr. Foulds.

Mr. Kerrio: Mr. Chairman, we are on the new vote. Are you going to alter the procedure?

Mr. Chairman: I think the procedure was that we did have Mr. Foulds on the list earlier for the previous vote, but he said he would rather speak under this one.

Mr. Kerrio: What has been done in the past, of course, is that on each vote—

Mr. Chairman: I can put you on second, if that meets with your approval.

Mr. Kerrio: I was just suggesting there has been a change of format.

Mr. Chairman: It hasn't been a change of format.

Mr. Kerrio: Have we not had the official opposition leading off in each vote?

Mr. Chairman: I think the procedure that was agreed to was that Mr. Foulds wanted to—

Mr. Kerrio: Go ahead. I will agree to that.

Mr. Chairman: We've got about 35 minutes left.

Mr. Foulds: Thank you, Mr. Chairman; thank you, colleagues from the Liberal Party. I want to preface what I have to say with a commercial of my own. I am an aficionado of detective novels and I think one of the finest sets of detective novels was written by a Swedish couple called Maj Sjowall and Per Wahloo. They discuss both sides of the questions that the committee has considered previously about the authority of the police, sometimes the abuse of it, sometimes the humanity of it. I think they are very balanced books. I just throw that commercial in for your edification and for any of those who read these estimates in Hansard.

Mr. Chairman: If you wish to file them as exhibits, I'm sure the members of the committee will be glad to read them.

Mr. Foulds: I haven't got the whole set myself.

I have a couple of other preliminary comments that I would like to make because I suppose what I am going to say will sound (a) critical and (b) somewhat harsh of the OPP. My own experience of the OPP in northern Ontario has always been a good one. I have always found them friendly when they caught me speeding on northern Ontario's highways and gave me a ticket. I don't have "MPP" plates unfortunately.

Mrs. Campbell: Oh, you get special consideration.

Mr. Foulds: No. I have always found them very helpful in terms of search-and-rescue operations, in terms of all kinds of peculiar and particular situations that occur in northern Ontario. But I really do feel very strongly—and in fact was not going to raise these matters until the remark by the Solicitor General was made in these estimates—that I think there is considerable evidence that the weight of the law, including not merely the OPP but including the sheriff in Fort Frances and including the crown attorney, has very substantially tipped the balance in favour of Boise Cascade and against the Lumber and Sawmill Workers Union. Wherther that has been deliberate or inadvertent, it has happened, and that should never have happened in a province like Ontario.

While I say I have enormous respect for the OPP, I also have enormous respect for labourers. I particularly have respect for those people who are still in what I consider the three toughest labouring jobs that still exist in our society: mining, the guys who work on the railway laying the track and the rails and the ties, and lumber workers, people who work in the bush.

[12:30]

I think you should remember a couple of things. I would just like to mention before this committee a couple of things about organizing lumber and sawmill workers in northwestern Ontario. It has been a long, hard, tough fight to get decent working conditions in the woods industry in northern Ontario. As a boy, I can remember very harsh conflicts in non-unionized situations in northwestern Ontario. I can remember two union organizers mysteriously disappearing in the 1930s—I can't remember, but I can remember my grandfather telling me about the two Finnish union organizers who were trying to organize a union in Onion Lake, which is not far from Thunder Bay, for the Pigeon River Timber Company, and mysteriously disappeared and were found the following spring.

If there has been an element of progress and an element of civilization brought into that industry, it has been because of the organizing work of local 2693 of the Lumber and Sawmill Workers Union. I say that as forcefully and as bluntly as I can, because

I would like to point out to you that the majority of people who work in the bush have one main thing to offer: they have their labour to offer and they have some skill that they develop in cutting the trees. But they are among the most vulnerable in our society. If anyone represents a northern riding, you just have to know how many workmen's compensation cases you get from backs and missing hands and so on in this industry.

Hon. Mr. McMurtry: I would like to make a preliminary observation, Mr. Foulds, to indicate that I am not totally unfamiliar with the demands of this type of labour. I worked many months in the bush. I nearly lost arms as a chokerman. I was a member of the union. I worked on railway extra gangs during the summertime and was involved in union activity where we could not interest the unions because of the transient nature of this labour. I just want to indicate these facts to demonstrate that I am not insensitive to the concerns of labour in these areas.

Mr. Foulds: But what I want to deal with is five general areas, and if we need to do some rotating, then that is fine because I can deal with them in blocks if that is necessary.

I want to deal with the action and behaviour on the picket lines by the OPP. I want to deal with the charges that have been laid and disposed of and withdrawn and dismissed. I want to deal with the behaviour of the OPP, particularly at Camp Robinson, in questioning children of the workers. I want to find out just how many OPP have been used and what purposes they have been used for. Lastly, I want to deal with the whole matter of search warrants that were issued on October 5, as a result of which a raid was carried out on the homes of union officials and the headquarters of the Lumber and Sawmill Workers Union, and from which to this date no charges have resulted.

Hon. Mr. McMurtry: October 5 of this year?

Mr. Foulds: October 5, this year. I will get to that in some considerable detail.

One of the things that disturbed me, frankly, is that the three or four times when we have raised the issue in the Legislature and it has been publicly raised with you, you have avoided answering the questions. May I remind you of the questions I raised in your absence with the Provincial Secretary for Justice (Mr. Walker) at the end of June, with regard to charges that were withdrawn in a Kenora court? I remind you of the letter from the Canadian Civil Liberties Association, which was sent to you on August 15 and which you acknowledged in mid-September indicating that there was an investigation being conducted into what they said in that letter and to which they, to this date, have received no further reply.

Hon. Mr. McMurtry: A reply was sent.

Mr. Foulds: As of yesterday when I checked with the Canadian Civil Liberties Association, they had not yet received that reply.

Hon. Mr. McMurtry: We have a copy of the reply right here.

Mr. Hilton: I have a copy here.

Mr. Foulds: I wouldn't mind having a copy of that reply.

Mr. Renwick: You said they didn't have it?

Mr. Foulds: I checked with them yesterday. Perhaps the minister has been waiting for this opportunity to reply to the question that I raised with him on Friday last.

Mr. Hilton: It was sent to Mr. Borovoy on September 21.

Mr. Foulds: That, then, does surprise me. Either something is wrong with the mail system, something is wrong with your file system, or something is wrong with their file system. I phoned their office yesterday and was informed that they had received no reply.

I want to put to you with as much sincerity as I can the perception that I have, and the perception that union people have, of what has happened up in northwestern Ontario. I will quote from an article in the Ontario Federation of Labour publication, one or two sentences which I think succinctly sum up that attitude:

"A pattern emerged, one familiar to all union members who have experienced the 'neutral role' played by our publicly supported police forces during industrial relations disputes. First, strike leaders and those particularly visible on the picket lines are identified. Second, charges of such minor offences as mischief and obstruction are laid as quickly as possible. Third, arrested strikers are given the choice of remaining in jail until a date for trial has been set, or signing an undertaking not to picket or to take part in strike-related activities, if released. Fourth, after thinning out the picket lines, trial dates are set three or four months down the road. Fifth, most of the charges are withdrawn or dismissed the day of trial."

Mr. Chairman: Could you provide that to the committee?

Mr. Foulds: I can get that Xeroxed and supplied to the committee.

Mr. Chairman: Thank you.

Mr. Foulds: Yesterday—the day before yesterday; it was the day before yesterday that I talked to Mr. Borovoy—the day before yesterday I was talking to the lawyer who has handled most of the cases for the Lumber and Sawmill Workers Union in the Fort Frances-Kenora-Red Lake area—Bob Edwards of the Dubinsky firm in Thunder Bay, who is in constant contact with Theo Wolder, the lawyer who has handled a number of the cases in Fort Frances. Of the 172 charges that were laid in those areas, you got 41 convictions, which is a success rate of 24 per cent; you had 41 acquittals, which in trial is a failure rate of 24 per cent of the total charges; you had 90 withdrawals, or 52 per cent.

I think one of the senses of outrage that the union feels is that when you have that high a percentage of withdrawals, and I will get to that business of people being kept overnight on minor charges in a few moments, one does not have to be a cynic to say those men were deliberately kept from the picket line, those men had the weight of law used to thin their ranks in keeping the economic balance between the union and the company.

In other words, with those charges you had a 76 per cent failure rate. One does not have to be a cynic to say a lot of those charges should never have been laid. In the meantime, the workers were kept in jail overnight, sometimes for as long as three days for show-cause hearings on charges as minor as mischief.

Then last Friday, as you will recall, I asked you a question about the sworn testimony of Constable Woodland in a show-cause hearing held on January 19. For the purposes of this committee, I would, if the chairman would bear with me, read that excerpt into the record:

"Examination, in the matter of Norman Lyle Meyers . . . Offence: 387 (4) of the Criminal Code.

"Constable Woodland Sworn

"Examination in chief by the crown, Mr. McCormack

"Q. Would you give us the circumstances of the alleged offence?

"A. It occurred on the 18th of January, 1979, at approximately 3:15 p.m. at Post 10, the entrance to Boise Cascade, at Central Avenue and Second Street. It involved a Burns Security vehicle coming out of the mill, having to stop at Central Avenue because of traffic, at which time the windshield of the security vehicle was broken, allegedly by the accused, Norman Lyle Meyers.

"Q. Do you have the value of the damage?

"A. I don't have the proper estimate from a garage. I have a estimate by a constable of $200. The vehicle was a 1977 Plymouth Fury four-door sedan.

"Q. This is a strike-related or a labour-dispute related offence, isn't it?

"A. Yes, it is.

"Q. Are there any outstanding charges against this accused?

"A. I don't have any before me.

"Q. And perhaps you could tell us for the third time this afternoon"—there were two other show-cause hearings held immediately previously—"how this strike and labour-related dispute has affected the number of police officers on duty in the Fort Frances area?

"A. There are presently 44 members of the Ontario Provincial Police in Fort Frances assisting us with policing duty due to the labour dispute that's currently"—sentence unfinished.

"Q. How has it affected the ordinary police members of the Fort Frances Police Department as far as number of hours working and so on?"

And I should interject at this point that Constable Woodland is not an OPP officer; he is, he was and I think remains, an officer in the Fort Frances town police.

"A. We"—that is the Fort Frances police department—"are presently working 12 to 15 hours a day, and on standby for the remainder of the time.

"Q. 24-hour call?

"A. Yes.

"Q. Do you know what the general reputation of this accused is in the community?

"A. It is generally favourable.

"Q. Is he married?

"A. Yes, I believe his wife is present in the court.

"Q. Where does he live?

"A. He lives in Devlin, Ontario, just west of town.

"Q. I have no other questions.

"Justice of the Peace: Counsel?

"Mr. Wolder:"—who is the counsel for the accused—"We have a man here, of favourable reputation. It's an alleged first offence. It's a property offence, allegedly breaking a windshield, and no outstanding charges. Why wasn't he released on his own recognizance in the first place?

"A. Because it's our instructions from the crown attorney, Mr. Saranchuk, who has

three days to prepare a case and for him to be prepared.

"Q. And you have those instructions for all charges arising out of strike-related incidents?

"A. Yes.

"Q. So are you saying that the police constables now are instructed not to use their discretion, but to hold, notwithstanding their discretion?

"A. That's right. The crown has asked that he have three full days as per the Bail Reform Act.

"Q. So the usual practice, constable, on other charges other than strike charges is to bring the accused into the police station, and then do whatever investigation and interrogation that you have, and then if the discretion is exercised in many cases the accused is released on his own recognizance?

"A. Prior to the problems we have—strike-related problems—that had been the practice, yes."

I won't read the whole transcript but I think that illustrates, if I may—and that is sworn testimony—the attitude or the instructions that police officers have received.

Hon. Mr. McMurtry: I just want to say at this point—

Mr. Foulds: Maybe I could just pause there.

Hon. Mr. McMurtry: —when this transcript was brought to our attention, I told you in the House the other day I thought it was the same transcript that had been brought to my attention, but I wasn't sure.

[12:45]

Mr. Foulds: Yes.

Hon. Mr. McMurtry: And I confirmed that it was.

Mr. Foulds: This was the one that was mentioned in the civil liberties letter as well.

Hon. Mr. McMurtry: Yes, and I assumed that it was the same matter. I notice that there was some communication from Mr. Langdon, who is a deputy director of crown attorneys, to Mr. Saranchuk about that. In response to Mr. Langdon's inquiry Mr. Saranchuk wrote Mr. Langdon, and I would like to quote from some of this letter, if I may. He says as follows:

"This will confirm my telephone conversation with you on Thursday morning wherein I advised that at no time has there been any interference by me with the discretion of the police, firstly, regarding the arrest or charging of persons, or secondly, regarding the release of arrested persons with regard to the strike-related charges.

"In mid-July I discussed the transcript in question with Constable Woodland, who is a court officer with the Fort Frances municipal police, and with Chief Solomon and they both acknowledge the apparent confusion and that there were no limitations put on the police as is suggested.

"I think what the officer was trying to say is that if the police saw fit to arrest someone and if they saw fit to detain him for show-cause hearing, then they may have been 'shackled' by the system with regard to when the bail hearing was to be held.

"Unfortunately I was not present at the hearing in question, otherwise I would have tried to clear that up while Mr. McCormack chose not to.

"As I explained to you, in order to impart some regularity into the system, having regard for the availability of the justice of the peace, the court reporter, duty or defence counsel, the police, the crown attorney, and the physical facilities, bail hearings were normally held here during the noon-hour recess on Mondays, Wednesdays and Fridays and at other times by special arrangement. Accordingly, on many occasions, the police brought arrested persons before a justice of the peace to request that they be remanded to the next bail court. In seeking that remand they would have regard for section 457(1) of the Criminal Code and if the request was acceded to by the justice, often the remand was stated for 'three days or sooner.'

"I am enclosing three memorandums from the local provincial court judge relating the procedure for bail matters. I draw to your attention that hearings were originally limited to Tuesdays and Thursdays but that was soon found to be insufficient.

"I would also draw to your attention the additional requirement that serves to bring an accused before Judge McLennan even though he has already been remanded by a justice of the peace to a subsequent date. That procedure creates additional work for the police and the court but certainly provides for an extra precaution by enabling a review of the accused's status by the judge and is probably unique in this district. Notwithstanding that the jurisdiction for such a requirement may be questioned, I can advise that it has been complied with most diligently."

Perhaps I should read on:

"As I read over the Meyer's transcript I noted that the show-cause hearing took place within 24 hours of his arrest, since the offence occurred at approximately 3:30 p.m. on January 18 and the bail hearing would have been at 1.30 p.m. on January 19. While that fact adds to the confusion and it con-

tradicts the suggestion that all accused were held in custody for three days, a review of the Meyer's information discloses an original remand by a justice of the peace from January 18 to January 22 or sooner. While I do not know why the justice extended the remand to the 22nd, there can be no question that the accused was dealt with as soon as possible.

"A quick review of a number of other informations on file indicates that not all accused were remanded in custody nor were they all remanded for three days when show-cause hearings were sought. In other cases when a remand was for three days the endorsement usually added the words 'or sooner.' In such cases, show-cause hearings were usually held on the day following the arrest or the day after that. I believe there were occasions on which show-cause hearings were delayed at the request of the accused to enable counsel to be in attendance. I also recall that Mr. Dubinsky, who acted for the union, and supposedly all of the accused employed local agents who represented them on many of the hearings. He encountered some difficulties in that regard resulting in delays.

"Officer Woodland is a conscientious policeman and I have no desire to question his honesty or integrity nor to publicly expose any confusion or error which may be exhibited by the transcript which purports to be accurate testimony. However," he said, "I would like to set the record straight."

Then he goes on to talk about various reporters who approached him about the matter during the summer.

Mrs. Campbell: Flowing from our discussion in the Radio Shack matter, I take it there is no evidence anywhere that the crown was inclined to give consent in these cases. Or perhaps he wasn't asked to give consent?

Hon. Mr. McMurtry: I can't answer that question, just what the—

Mrs. Campbell: Perhaps again we have a case where the opportunity wasn't available to accused persons or—perhaps we could get further information as to the crown position relating to his ability to give consent. That seems not to be covered in the letter.

Mr. Kerrio: At whose initiative do you think the major portion of those charges was withdrawn?

Hon. Mr. McMurtry: The crown's. That was another matter that I wanted to discuss in passing.

Mr. Kerrio: Anyone else involved though?

Mr. Foulds: The company?

Mr. Renwick: Mr. Foulds is going to come to that point, aren't you?

Mr. Foulds: Yes.

Hon. Mr. McMurtry: The crown reviewed a lot of these municipally laid charges and I think most of the charges were withdrawn, but I'll check. You may recall that unfortunately there was somewhat of a public confrontation between one of our crowns and the local police chief, when the local chief of police criticized the crown for withdrawing all of these charges. I think Mr. Dubinsky felt the crown had acted very properly in withdrawing some of these municipal charges, some of which represented more than one charge or alternative charges in relation to the same occurrence.

Mr. Foulds: Let me be blunt. There are a couple of things that frankly worry me. Constable Woodland gave that testimony under oath, yet you're accepting the crown's version in the letter which was not under oath.

Hon. Mr. McMurtry: I'm not sure whether we have a statement from Constable Woodland or not. He's not an OPP officer, is he?

Mr. Foulds: No, he's not.

Hon. Mr. McMurtry: Unfortunately there was some unhappiness that occurred between the crown attorney's office and the chief of that municipal police force.

Mr. Foulds: But I don't think—

Hon. Mr. McMurtry: I just want to make a further point. Because the evidence was given—and I think it is important to note this fact—under oath, as I have indicated already, the crown counsel was very concerned about how he would get his version on the record.

Mr. Foulds: There are two points, I think, that need to be made: First, I may be wrong but I don't think there was a percentage difference between withdrawal of charges laid by town police in the locations of Kenora-Fort Frances and the charges withdrawn that were by OPP.

Hon. Mr. McMurtry: We'll try to get this information for you. I don't have it at the moment.

Mr. Foulds: I have a few specific instances of OPP-laid charges that were withdrawn in a few moments.

The second point I think is important to keep in mind is that, for whatever reasons, such people should not be kept in jail. Charges against them were later dismissed, withdrawn, and even those who were con-

victed were given relatively minor sentences such as a fine and so on. But they had to stay overnight, at least one night, in a police jail that they should not have had to stay in. I think that's the point that needs to be made very forcibly on this matter.

That's all I have on that item. If other committee members have supplementary questions—

Mrs. Campbell: I have a question for Mr. Foulds—it's an unusual procedure—but in speaking with counsel has he asked him whether the crown at any time refused consent on the detentions? I'm not trying to get around the OPP involvement but I think we should have a complete picture because the crown has been brought into it by the transcript.

Mr. Renwick: The best way may be to ask over the weekend if the Solicitor General would have the crown come here for next Wednesday; not for us to question him but for him to be available here to make certain we can get this matter straightened out. I'm very upset by the very points that my colleague has raised: the sort of subtle implication that somehow or other the precise answers by Constable Woodland to specific questions in the court now somehow or other isn't really what took place at all. It's something else that didn't happen. It's some kind of fantasy; perhaps that hearing never really did take place.

Hon. Mr. McMurtry: No one suggested—

Mr. Renwick: No, but its purported accuracy. I take it that we're entitled to believe this is the evidence, until somebody says it's not. I think it would be very helpful to us if we could have that information. I think it would be equally helpful, because of the obvious parallel with Mr. Brando Paris's specific case, that we get those provincial court judges' instructions with respect to this matter of show-cause hearings. We've simply got to get it clarified during the short time remaining in these estimates. Otherwise we will have to pursue it before the Provincial Secretary for Justice (Mr. Walker).

Hon. Mr. McMurtry: I'll see whether Mr. Saranchuk in available to be here.

Mr. Renwick: I think it would be helpful to all of us if he were here.

Hon. Mr. McMurtry: I think Mr. Saranchuk certainly indicated in the letter than he wanted to set the matter straight. He was very distressed by a number of the newspaper reports because the matter received—as you know, Mr. Foulds—a great deal of attention. This particular transcript received a good deal of attention in the northern press. I'm not suggesting it shouldn't have, but I'm just saying that Mr. Saranchuk was very concerned by what he states is obviously some confusion in the mind of Constable Woodland.

Mr. Foulds: Here we have a precise verbal description by one police constable. The reality is there is a large number of people on the picket lines who were removed from the picket lines because they were in jail overnight awaiting a show-cause hearing.

Hon. Mr. McMurtry: There's also one reality that we're going to deal with on Wednesday and that was the volatile situation that existed, the number of very violent incidents, including large spikes on the highway that nearly caused a school bus, with a number of children in it, to turn over in the ditch.

[1:00]

Mr. Foulds: Okay, this was not a kindergarten—

Hon. Mr. McMurtry: No, I just want to make it clear—

Mr. Foulds: We understand it was a rough, terrible dispute—

Hon. Mr. McMurtry: Railway bombings.

Mr. Foulds: None of those railway bombings, alleged or real, has ever been directly or indirectly traced to this dispute or to the Lumber and Sawmill Workers Union.

What you have in the case of those railway bombings, let me remind you, is anonymous letters saying that Smokey, the guy who was supposedly behind all this, was a friend of the Lumber and Sawmill Workers Union. Where did you get those letters from? You got them from the Lumber and Sawmill Workers Union, because they turned them over to you. So, don't use that kind of specious defence.

Hon. Mr. McMurtry: I am tired of some of the rhetoric that is coming from you about the activities of the police. Some of it is just clearly irresponsible, and that's—

Mr. Foulds: Come on.

Hon. Mr. McMurtry: —the statement that the police in this province are used as strike-breakers—

Mr. Foulds: I didn't say—I am not accusing—what I am saying, Mr. Solicitor General—

Hon. Mr. McMurtry: —and some sort of company pawns.

Mr. Foulds: No, I am not accusing the police.

Hon. Mr. McMurtry: That is the implication, and that is not fair.

Mr. Foulds: I am saying that your authority has been used either inadvertently or deliberately to tip the balance in a delicate negotiating situation. That is what I am saying.

Hon. Mr. McMurtry: And as I recall, one of the unions involved communicated with us, asking for additional police protection because of its concerns for the safety of its own members. So I think that all we should try to do is to give the total picture—in fairness to the police—of what they were faced with, in a very highly volatile situation.

Mr. Foulds: Okay.

Mrs. Campbell: I have this concern, if the crown is coming, and one would have hoped he would. I wonder what the position is of this constable, who at this time would not be asked to be present. We have sworn testimony, presumably—I have not seen the transcript, I accept that it is sworn testimony; we have a letter from the crown which seems to me to be offering an interpretation in the letter, if I am correct—I'm not very good at accepting things I don't see.

Hon. Mr. McMurtry: He was simply stating what his position was.

Mrs. Campbell: Yes.

Hon. Mr. McMurtry: He wasn't there at the time of the hearing.

Mrs. Campbell: No, but he is seeking, it seems to me, to interpret, on behalf of the constable, what he thought the constable was confused about, or something. Surely if we are going to have the crown here, we should at least accord the opportunity to the constable, because it is rather serious in my view, if sworn testimony is questioned. I don't know whether he would want to come, but I think he should have the opportunity.

Hon. Mr. McMurtry: We are attempting to turn this matter into some sort of judicial type of inquiry as to what occurred. I don't know how helpful this is going to be, with two and one half hours left in the estimates and the number of questions that you want answers to, Mr. Foulds, and the number of questions that I would like to give you answers to. I would just like, in 30 seconds, to say that I am very concerned. I am not treating these allegations lightly. As the Solicitor General of this province I am terribly concerned about any perception that may be created or may be gaining some credence in the labour movement that the Ontario Provincial Police are being manipulated by management in these labour situations.

It causes me grave concern that some people might really believe this to be the case when I know how concerned the Ontario Provincial Police are to approach these matters in a very even-handed manner, with regard to the public safety—

Mr. Renwick: My colleague never said that.

Mr. Foulds: I would advise you to read the transcript. I was very careful about what I said, and what you are now doing is building a defence against statements that were not made.

Mrs. Campbell: I, Mr. Chairman, do not want this to be viewed as a trial. But when somebody makes a sworn statement and that sworn statement is challenged, I have a great concern that he would not have any opportunity to address us if the crown is to be here to clarify his position. That is all I am saying.

Mr. Renwick: I'm not asking that we question the crown. All I am saying is that his letter in reply leaves so many unanswered questions with respect to what I accept wholeheartedly and without question—that is, the sworn testimony in the court of Constable Woodland. That letter is not a reply to it. I want the crown here so that he can speak to the minister, or the minister's advisers, to try to clarify what happened.

So far as I am concerned, Constable Woodland is not in question before this committee in any way, shape or form, at this time. I don't want Constable Woodland to be put in the position of being in the room where this committee is dealing with him. If there comes a point where there is any imputation about Constable Woodland then we will have to stop that part of the proceedings.

I am interested in clarifying the principles which are underlining what my colleague has tried to say—not in trying to catch out Constable Woodland or have him—

Mrs. Campbell: I didn't mean to—

Mr. Renwick: No, no, I didn't mean that—have him caught out in some invidious position. I take it that when he answered specific questions very clearly and very directly in that transcript, that is the way the world is—not the way the crown has tried to indicate the way the world is.

Mr. Chairman: Thank you, Mr. Renwick, for that clarification. I think the committee is in agreement with that.

We have approximately two hours and 15 minutes left in these estimates. The com-

mittee, if the questions are phrased in such a way, could probably deal with some matters relating to this under justice policy, which has six hours left. I don't know whether Mr. Foulds wishes to consider that possibility as well. But I, the chair, depending on the way in which the type of question is asked, could probably consider the questions to fall under justice policy.

Mr. Foulds: The difficulty being that the Attorney General/Solicitor General, is probably in a better position to answer most of the questions.

Mr. Chairman: I recognize that. I also recognize, though, that we only have two hours and 15 minutes, and that's a limitation on you as well as on the rest of the committee.

Mr. Foulds: Mr. Chairman, what I will do is go through the material and see what I can edit out as stringently as possible.

The committee adjourned at 1:07 p.m.

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Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Ministry of the Solicitor General



Third Session, 31st Parliament
Wednesday, December 12, 1979
Morning Sitting

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Published by the Legislature of the Province of Ontario.
Editor of Debates: Peter Brannan.

LEGISLATURE OF ONTARIO

WEDNESDAY, DECEMBER 12, 1979

The committee met at 10:02 a.m. in room 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL
(continued)

On vote 1704, management and support services program:

Mr. Vice-Chairman: These are the last few dying hours of the Solicitor General's estimates. Mr. Foulds has the floor.

Mr. Foulds: Could the clerk advise us just how much time we have left so I can make sure—

Mr. Kerrio: The amount of time that we have left or the amount of time you have left?

Mr. Foulds: I was considering both factors—

Mr. Kerrio: Let us keep that in perspective.

Mr. Foulds: —because one of the things I did want to do is to use as much as I can of the material that I have but to leave sufficient time for the Liberal spokesman to have—

Mr. Vice-Chairman: We have two hours and seven minutes, I am advised.

Mr. Foulds: Two hours and seven minutes.

Mrs. Campbell: You may have the seven minutes.

Mr. Foulds: I think I can account for the first two hours.

Mr. Vice-Chairman: Let's not waste any of it.

Mr. Foulds: Right. Over the weekend I summarized some of the material. When we adjourned on Friday you will recall I was expressing the concern I had because there did seem to be an inordinate number of charges laid against striking members of the Lumber and Sawmill Workers Union which subsequently were withdrawn or dismissed. Just to recap that very briefly, it is my understanding there was about a 6 per cent failure rate, which is exactly the reverse of what usually happens when charges are laid. Usually the OPP has about a 76 per cent success rate, it is my understanding.

I want to deal particularly today with the cases of three women who were arrested on the picket line and I am going to deal with that very briefly because I think the point about that has been made. I want to conclude by dealing with the search warrants that I mentioned the last day, the search warrants of October 5.

I want to start by saying that I was disturbed really by the interim response of the Attorney General because I am not making, I hope, an attack on our system of justice or on the OPP as such. I know that if I went outside this room today and I received a threat on my life, the OPP would be there to help me. They have helped me in the past and they have helped other politicians, including the former leader of this party, in difficult circumstances. So let us not use that straw man as a basis for discussion.

What disturbs me about the incidents is that I believe and the Lumber and Sawmill Workers Union believes that, whether knowingly or unknowingly, consciously or unconsciously the weight of law tipped the balance in their struggle in favour of the employer against the employees. I think that is the basis on which we have to understand the illustrations that I am using.

I give you the illustration of Judy Harvie, who is the wife of one of the active strikers in Kenora who was arrested on the picket line. I want to read a bit from her letter because I think she expresses it as forcefully as I can, if not more so, and with a genuine quality that I could not muster. It is a letter that she sent to the Solicitor General, a copy of which I received on June 27. I think this was the second one that she had written the Solicitor General because she starts off by saying, "With regard to your letter of March 28." So I assume she received a previous reply.

She says, "Well, sir, our strike is still on, no thanks to you and Mr. Elgie. If you think this comment is not nice, sir, well you, Boise and Mr. Elgie have made me hate, which I have never felt this way before in all my 35 years of life, and have hurt me, my husband and my children. I now have only five children from birth." She means natural children. "The other four were foster children which I

loved very much and had to give up on January 9, 1979." That was because of the strike and not being able to support them financially, and I talked to Judy Harvie on the phone last week about not being able to support them in terms of what she felt was the affection and the love that they needed, foster children perhaps needing a little extra having come from difficult circumstances.

"Yes, sir, I hate Boise Cascade and I definitely do not like you or Mr. Elgie for not helping settle the strike. Your police force and courts are unjustful, and no matter what the bigshots in this town say, this strike is ruining our town.

"My court case was held on June 22, 1979, Friday. Officer R. A. Roberts of Goderich, Ontario, charged me with assault, remember? Well, Mr. Roberts was 240 pounds, six feet three inches; I am 107 pounds, four feet eleven inches, and my charges were withdrawn. If I would have hit him, it wouldn't have been in the stomach; it would have been lower, if you know what I mean. And he wouldn't have been able to skip town the next day because he would have been too sore to walk. The only reason he withdrew the charges is because I did have many witnesses to prove I did not ever touch him but I knew our dear OPP would have picked one of the biggest officers they could find to charge me.

"Another thing, my photo was circled in the police station beforehand so they just wanted me off the picket line. I was only standing up for my rights and children's rights. We do have rights, don't we?

"If you wish to send a reply, help yourself, sir. I am sorry for myself for feeling this way, but as I said, I can thank Boise and our dear government for that."

I talked to Judy Harvie last week and she is not as bitter as she expresses in that letter. She admits that time has, to some extent, overcome her bitterness. I don't know how to express it strongly enough. "Unfortunate" is not a strong enough word, but I think it is unfortunate that good people, people who have made their lives in the north, in northwestern Ontario, people like Judy Harvie and her husband, feel that way about the police.

I feel it is unfortunate that the police get put into situations where perhaps they should not be put—that perhaps, just perhaps, there is somewhat of an overkill in overloading picket lines with OPP constables. We have seen a number of occasions of that in the last year or year and a half. I understand there were other circumstances in northwestern Ontario and, I will get to those in a moment.

This letter is a letter from Wendy Sutherland. I have talked to all of these women last week and all have given me permission to use the material I am using. Wendy Sutherland sent a letter to me dated June 27.

"We are in a situation where the police, government and Boise are fighting union men who have a legitimate excuse for being on strike. I was one of the wives who was arrested for obstructing an officer in February and restricted from the picket line." Restricted from the picket line in February and the case was not settled until June.

"I went to court June 20, 21 and 22 and the judge dismissed my charges. The officer, R. A. Roberts of Goderich, was six feet three and weighed 240 pounds; I weigh 120 and I am five feet five. I was finger-printed, mug shots were taken and a number was given to me. I was publicly humiliated over radio and TV and in the newspapers.

"I was not the only one humiliated and degraded. With police harassment and unfounded charges laid and all the news coverage, our children also were indirectly involved through their school friends and general talk that they heard. It is just terrible when young children don't trust the police and are scared of them."

Finally I just want to quote from a bulletin that was put out by Marlene King who lives in Camp Robinson. Marlene King is the wife of, once again, one of the key strikers. There is no doubt about that. The bulletin was published in February 1979 and I just want to quote a few sentences from it.

"We have been filled with sadness, disgust and frustration. We have watched helplessly as our men have been unjustly jailed and given criminal records for being strong-minded and fighting for what they believe in. We have watched families and friendships fall apart because one or the other is on 'the wrong side of the fence.' We have seen our men off to the negotiating table full of optimism, only to have them arrive home more bitter and militant each day.

"We have burned with rage as company security guards patrol by our homes scribbling down our every movement." Remember Camp Robinson was essentially a company encampment, a bush camp where families could live. "Is it really necessary for Boise Cascade to know how many times a day our vehicles leave the driveway or what time each night our lights go off?" It is my information, at least verbally, that the OPP cruisers were going around Camp Robinson

with their lights out at night taking a note of what time people went to bed. There was one woman who gave birth to a child last fall, I guess it was, and over the winter, of course, she would have to get up in the middle of the night to feed the baby. I know that experience; I think we all in this room know that experience. There would be an OPP cruiser around looking for movements.

I go back to the quote: "They are only serving to antagonize an already expensive situation. We have spent hours protesting and calling out for logic and fairness in this situation only to watch as hundreds of OPP, supposedly called in to keep the peace, aid Boise Cascade in their daily whims and strike tactics by allowing Boise free run of our towns and woodland areas. Are they sent to keep the peace or to be put at the disposal of Boise? Where does the OPP involvement end?

"Does their involvement include flying Boise executives to woodcutting sites in their OPP helicopter or taking full control of our highways and town roads? The OPP stop traffic for any length of time to suit Boise while we, the taxpayers, must sit and wait, taking a back seat. Boise is moving equipment to woodcutting sites and hauling wood that they promised they would not do at the beginning of the strike.

"Do we have faith in these people? The OPP are costing us millions. Are we, the taxpayers, not paying for this calamity?"

I think those words come from the heart. I don't think they are malicious words. I think they are the words of people who have been turned bitter by a situation which could have been avoided. I think they are the words of people who will get over it, but I believe they are the words of law-abiding citizens.

I think one of the things they find frustrating is the case that I brought to the attention of the former Provincial Secretary for Justice (Mr. Welch) in June of Robert Dale Lougheed who, because there were charges before him or against him when he was on strike, one of the conditions of his being released was that he not go near the picket line. So he was not allowed to go near the picket line. When he decided to leave his fellow strikers and go back into the mill and work, the charges were not withdrawn but he was allowed to cross the picket line. If he was going to be an incitement to some danger on the picket line as a striker with those charges against him, surely the same conditions applied to him as a nonstriker because the charges were not withdrawn or dealt with. That seems to those people to be quite unjust.

[10:15]

I had a chance to read the reply to Mr. Borovoy that you filed. You dealt with only the first part of the letter. You did not forward to him the detailed investigation that you did. You say in your letter on page 2: "I understand that the nonstriking workers tended to be more placid in their behaviour than their fellow workers who were on strike. This may be the reason why the striking workers felt that leniency was being shown by the police to nonstrikers."

Let me just quote two paragraphs from Mr. Borovoy's letter on behalf of the Canadian Civil Liberties Association to you:

"There is an additional reason for questioning the judgement of the authorities on this matter. At times they appear to have have exercised a rather curious selectivity with respect to their concern for breaches of the peace. In this connection, consider the affidavit of Dennis Hayes with respect to an incident at the Fort Frances picket line. According to this affidavit a nonstriking worker pulled a knife on one of a group of strikers with whom he was arguing at the entrance to the company's property.

"Arriving soon thereafter, the police reportedly seized the knife and asked the affected strikers separately to prepare statements of what had happened. At this point, however, the police seemed to adopt the role simply of go-between. The police reportedly advised the strikers that if they insisted on charging the nonstriker, he in turn would probably insist on countercharging them.

"The handling of this incident raises questions about possible double standards. Is the use of a knife not considered sufficiently serious to impel the police on their own initiative to lay charges? Was there no desire to remove from the scene of conflict this nonstriker who allegedly resorted to such a method? By contrast, why would the police hold in custody a striker who is charged with nothing more serious than breaking a car window? What accounts for the different treatment? It is worth noting that the man with the knife ultimately was found guilty as the strikers had charged."

I guess the strikers had to lay what is called a private information. Now that was not dealt with in the letter you filed with the committee and I think that is a serious matter, because it's that whole question, whether there was a double standard or not there appeared to be a double standard and that exacerbated the situation.

Finally, I would like to deal with the whole question of the search warrants that were issued on October 5. This is the incident

I am at most at issue with, because yesterday in the Supreme Court of Ontario, before Mr. Justice Goodman, the six search warrants issued on October 5, all six of them, were quashed. In other words, they were declared illegal. As I understand it as a layman, that means the subsequent searches were illegal and for that period of time the OPP had all kinds of material and information which rightfully belonged to the union. What is even more frustrating for me, and it must be for the lumber and sawmill workers, is that not one single charge has arisen as a result of those search warrants.

There were simultaneous raids on October 5 at the offices of Lumber and Sawmill Workers Union in Thunder Bay, Fort Frances and Kenora, and in addition private homes in Thunder Bay and Hurkett were raided along with a private hotel room in the town of Fort Frances. What really bothers me about the events of that day is that hundreds, if not thousands, of pages of private documents were taken. If the officers were only seeking as the warrant says—they are all basically the same, and I have copies here; let me just quote one:

"Whereas it appears on the oath of D. J. Olynik that there are reasonable grounds for believing that certain things, to wit, handwriting samples, samples from typewriting and photocopying machines, correspondence, memoranda and other papers that have evidentiary value relating to the offences listed, which are being sought as evidence in respect to the commission, suspected commission or intended commission of an offence against the Criminal Code, to wit, mischief and conspiracy to commit mischief, are in the dwelling house of Alfred Myron at 250 County Boulevard, Thunder Bay, Ontario, hereinafter called the premises, this is therefore to authorize or require between the hours of 10:30 a.m. and 12 midnight" et cetera et cetera.

They were all basically the same. They were all evidently for handwriting samples, samples from typewriting, photocopying machines and so on.

What really bothers me is that what they did in the case of the offices of the Lumber and Sawmill Workers Union, is basically swoop in, scoop up a bunch of material, as much as they could, and take it away. A lot of that information was sensitive information. A lot of it was useless. One piece was a list that contained my phone number, by the way, because Fred Myron, who—

Mrs. Campbell: You weren't picked up?

Mr. Foulds: I wasn't picked up, no. Here I am.

Mrs. Campbell: There is a double standard!

Mr. Foulds: Right.

I won't read the full affidavit of Alfred Myron of the city of Thunder Bay, which was presented in the Supreme Court, and I suppose was one of the pieces of evidence that succeeded in quashing the search warrants, but I will read parts of this affidavit, which is dated October 12, signed by Alfred Myron and witnessed by Anita Kaardal, who is a Commissioner of Oaths for the province of Ontario.

"I, Alfred Myron, in the city of Thunder Bay, in the district of Thunder Bay, make oath and say as follows"—I am just quoting parts of the documents so it may be somewhat disjointed. "I am further advised by the said Eleanor Kushiner and do verily believe that police officers proceeded to search my office situate in the said Lumber and Sawmill Workers office, and the office of Tulio Mior, situate in the same building. The officers proceeded to take with them, a large number of documents, papers and items, and when requested to provide a list of the items they were taking, they refused to do so.

"Subsequently on the same date, the same police officers attended at my residence situate at 250 County Boulevard in the said city of Thunder Bay, and while I was at home presented me with a search warrant, which appears as exhibit B to this affidavit. They then proceeded to search my house for a period of one and a half hours, and took absolutely nothing from my house."

Mrs. Campbell: That's disappointing?

Mr. Foulds: What I think is shocking, and why I think Mr. Myron, and others, feel it was harassment is that the police officers spent an hour of that hour and a half in Mr. Myron's bedroom and stripped down the bed, including taking sheets off the bed. If you are really looking for evidence that might be used in a charge of mischief and conspiracy to commit mischief, you might search the basement and you might search the woodshed or the toolshed outside. You interjected about so-called bombing threats and so on; if that is what you are really looking for, I am sure no one would keep sticks of dynamite in the bed or in the bedroom.

Hon. Mr. McMurtry: Perhaps I should interject at this time. I don't want to shorten your presentation, but I just want to tell you an investigation is ongoing, so my response will, of necessity, be limited.

Mr. Foulds: All right, if the investigation is ongoing, the one thing I want to point out to you and point out to your officials is that part of the investigation that was on-

going was conducted irregularly to say the least. That is this part in which you had search warrants which have subsequently, yesterday, been quashed in the Supreme Court of Ontario, indicating that those searches have not taken place.

Hon. Mr. McMurtry: I haven't read the decision yet. The allegation was that the warrants lack particularization.

Mr. Foulds: "The informant failed to sufficiently state reasonable grounds to believe that the documents to be searched for would afford evidence with respect to the offence alleged to have been committed." Those were the judge's words.

Hon. Mr. McMurtry: My understanding is there may have been some careless or inadequate drafting. We are not dealing with a trivial matter. As you know, the occurrences, five bombings, were the subject matter of the search warrants.

Mr. Foulds: That was the subject matter of the search warrants?

Hon. Mr. McMurtry: This is my understanding.

Mr. Foulds: I find that very strange, whereas there has been no single charge of any kind laid against the members of the Lumber and Sawmill Workers Union, or against any of its officers, that relate to offences that were not associated directly with the picket line. I find that very strange, in that when the Lumber and Sawmill Workers Union received the letter from this anonymous source called Smokey that assumes the responsibility for the bombings and the bombing threats, the union turned the information over to the OPP. I find it very strange that the OPP would then suspect, as you seem to be saying, that the union was directly or indirectly involved in those bombing threats. That is a very serious charge.

Mrs. Campbell: Was it a charge?

Mr. Foulds: There were no charges.

Mrs. Campbell: You were referring to the Solicitor General's references. I don't think he charged any such thing. I'm not here to protect you, Mr. Solicitor General.

Hon. Mr. McMurtry: No, no, I'm just saying there's an ongoing investigation into five separate bombing incidents.

Mr. Foulds: Right, and what you seem to say to me is that part of this raid was to find evidence for those. What grounds did you or your officials have for believing that they could find evidence in the Lumber and Sawmill Workers Union office?

Hon. Mr. McMurtry: I can't comment on it at this time. We are dealing with an ongoing police investigation, I'm sorry.

Mr. Foulds: I'm sorry too.

Mrs. Campbell: I wonder if I might just have a word? There are certain matters which have been legitimately raised which give legitimate concerns to all of us. I do think we have to distinguish somehow between that sort of thing—we haven't even dealt with what the crown position is. Is the crown here? I think, though, to continue in this thing with an ongoing investigation is not really going to get at the root of the earlier problems which were raised. I'm not trying to stop this. I am just suggesting that we try to keep on track with those things which can be dealt with in this committee.

Mr. Foulds: I have five or six minutes left, then the Solicitor General can reply as he sees fit.

I suppose I am using the material, and the indication of these searches is another indication where, frankly, it looks as if it was a fishing expedition, because let me just quote you the material that was taken. Even if the cause for dismissal was a technicality, which I don't believe—I just quoted to you what this judge's judgement says—but even if they were dismissed on a technicality—

Mr. Renwick: There is no technicality. If the Solicitor General is saying that, maybe my colleague would reread what Mr. Justice Goodman said.

[10:30]

Mr. Foulds: The informant failed to sufficiently state reasonable grounds to believe that the documents to be searched for "would afford evidence with respect to the offence that was alleged to have been committed."

Mr. Renwick: It's the key of the criminal law of the country, you know—not a technicality. There was a total failure of judgement, that's what Mr. Justice Goodman is saying.

Mr. Foulds: And if you were looking for handwriting samples or photocopy machine samples or typewriting machine samples, what they found when they got an order from Judge Fitzgerald in the district court of Thunder Bay, and they were able to examine the documents at the Ontario Provincial Police office, what was taken? Mr. Myron's 1971 Ontario fishing licence; a love letter from his wife dated 1965; all of the notes that—and I'm quoting here—"I had made during the negotiations conducted between Lumber and Sawmill Workers Union and

Weldwood Company of Canada, made in the years 1971-78.

"4. Notes made by me during the negotiations between Lumber and Sawmill Workers Union and Eddy Forest Products Limited made in 1977 and 1978.

"5. Notes made by me during the negotiations between Lumber and Sawmill Workers Union and Boise Cascade of Canada Limited.

"6. Receipts for OHIP payments that we had made on behalf of various members of Lumber and Sawmill Workers Union in 1977.

"7. Report of the work of the task force on the Workmen's Compensation Board dated 1973.

"8. My personal payroll statements showing my wages with the Lumber and Sawmill Workers Union.

"9. My copies for my expense account which are submitted to Lumber and Sawmill Workers Union for the year 1978.

"10. Other similar documents which appear to have no relevancy to any kind of investigation.

"12. I am advised by Tulio Mior and verily believe that documents taken from his office included inter alia the following types of documents:

"1. Notes made by Tulio Mior on negotiations between Lumber and Sawmill Workers Union and Abitibi Forest Products Limited.

"2. Notes made by the said Tulio Mior on negotiations between Lumber and Sawmill Workers Union and various other pulp and paper companies."

As you can understand, when you're an officer of a union like Lumber and Saw, you are involved in a number of concurrent negotiations. One time you have this very difficult situation with Boise Cascade in which you feel cornered—no doubt about that; a very difficult situation; fighting hard; pretty good morale on the line. They still have after a year 100 active strikers. They have 100 people of 325; that's remarkable loyalty.

I want to remind you that this was not a strike that was "engineered by the union leadership." It started as a wildcat strike which, although they are much maligned and tut-tutted in this country and North America, show one thing. They show that the grass roots is feeling it because they walked out without the authority of their union leadership.

So the people up there feel very deeply about this. What happens? The union officers also have to negotiate with other companies in other areas. What happens? The Ontario Provincial Police come in and take their confidential notes; the notes regarding what they are asking for, what areas of the contract they might be willing to compromise on, what areas they're going to hang tough on.

While those notes are not available to them, they can't continue their negotiations with the other companies. That's one thing that happens. Now they have to go and get Xerox copies of those notes. If you really were serious about these search warrants, you would have had your officers much more adequately trained to find out what are printed documents, what are fishing licences and what are handwriting samples.

Was it really necessary to take that letter of 1965 which had a sentimental value for Mr. Mior? Maybe it was for the handwriting sample, but it was his wife's handwriting, remember. I just find the whole thing shocking.

If the police had reason to believe that any single member of the 6,700 members of Local 2693 was involved in acts of mischief, then it is true, and I readily admit, that an investigation would have been warranted. However, with the results that since October 5 there have been no charges; you are no further forward in your investigation about the serious incidents that are going on—which may not be related, and I believe are not related to the strike—I don't believe the bombings and the bombing threats had anything to do with the strike—it really does cause one to wonder what the motives were for raiding the homes of the union's officials. It really does cause one to wonder what the motives were for taking all of the material they did.

There is something terribly wrong with the way the OPP have handled that situation in the three areas I have mentioned: the surveillance of the community of Camp Robinson; the charges and the handling of charges against strikers on the picket line and the nonlaying of charges against nonstrikers for similar acts on the picket line; and the business of the search warrants.

What I would like to know is: who authorized the raids? Who authorized those search warrants? Were they taken at the local level? How high up the chain of command?

I would have thought that something so sensitive as this, after the union officials had a top level meeting in August with the Attorney General, with the Minister of Labour (Mr. Elgie), and with other people, the Solicitor General would have been advised personally that this action was going to take place. If you were not advised, I think that was a serious error and I would like to know what your personal response is and your response as the Solicitor General.

Hon. Mr. McMurtry: I am precluded from responding in detail to a number of these issues that have been raised because of the ongoing investigations. But I would just like to make some general observations, Mr. Chairman.

Mr. Foulds expressed his shock and dismay at the activities of the police in relation to this strike. I want to indicate to Mr. Foulds that a large number of people in that area, including hard-working union people, were very shocked and dismayed about the extent of violence that was involved that they believe was related to the strike.

From December 1978 to October 1979 the OPP have recorded incidents involving obstruction, assaults, mischief, wilful damage, intimidation, causing disturbance, trespassing, weapons, explosives, threatening, arson, spikes on the highway—some 710 different incidents that they recorded.

We have what we've already referred to as five separate bombing incidents where explosives were actually used. There were some 534 flat tires reported as the result of the use of these spikes on the highway, including two school buses. There was a great deal of concern expressed—needless to say—by parents of school children given this type of activity.

Interjections.

Mr. Foulds: I certainly don't want to take crown's evidence.

Hon. Mr. McMurtry: I think you'd have to agree, Mr. Foulds, that whoever was responsible for this activity—as we said the other day—when we're dealing with a highly volatile situation involving violence, and threats of violence to a very extreme degree—

Mr. Foulds: Yes, but there was no raid on the Boise Cascade offices, was there?

Hon. Mr. McMurtry: I can't obviously, given this context, respond specifically to each and every one of your concerns because I just don't have the total information with me at the present time, but there's no question that in so far as the ongoing investigation in relation to the use of explosives is continuing, I think you would agree as much as anybody here that whoever is responsible for those explosions hopefully will be brought into a court of law and brought to justice.

Mr. Foulds: Absolutely.

Hon. Mr. McMurtry: I will certainly review the matter of the issuing of the search warrants. I just can't give you the details. I haven't seen Mr. Justice Goodman's judgement. I will certainly review that in relation to any procedures that were adopted with respect to obtaining these search warrants in the first place.

On the issue of the number of police who were present at any one time, if you want to talk specifically about the number of police, I gather the maximum number of OPP that attended at Kenora at any one time was 84, and in Fort Frances 45. We're talking about two or three shifts a day and those were the maximum numbers; three shifts a day.

As you know, there were a number of meetings. The OPP are always concerned about their presence when a strike is going on. My recollection is that the OPP senior officers met on a regular basis with union officials, both in Kenora and in Fort Frances, and were involved in weekly meetings to discuss ongoing problems to avoid any unnecessary confrontation between strikers and police, or police and any other citizens.

Obviously it's a very difficult role for police to play. It was the hope that by these regular meetings a lot of the tension so far as it related to citizen-police involvement would be diffused. I think the very fact that the police had these meetings demonstrated their concern not to be involved in situations that would produce ongoing confrontation, ongoing tension between the OPP and the local police forces and citizens in the community.

There is a large number of incidents that you have touched upon. Obviously I can't at this point deal specifically with incidents such as you have referred to, involving the two young women who were charged with assaulting police. I just simply don't know the circumstances of those charges at this time. If you want me to ascertain the circumstances as far as the police were concerned I will be happy to do that and forward that information to you. Given the length of this strike, and given the number of incidents, I think it really is impossible for me to respond individually without some greater notice.

Mr. Foulds: I understand Judy Harvie has sworn on oath that when she went into the police station there was a photo of her on the picket line with her circled. Is that a usual practice, that police officers sort of identify people who show up on the picket line regularly? That I find reprehensible.

[10:45]

Hon. Mr. McMurtry: I suppose there could be any number of reasons why that might have occurred, but without any knowledge of this specific incident I don't think it would be fair to her or to the police to speculate as

to why her photograph may have been circled in that manner.

Mr. Chairman: Mrs. Campbell has a supplementary.

Mrs. Campbell: I guess I have several. I want to stay off the question of the investigation because I don't think we are going to resolve that issue here. The fundamental issue that the Solicitor General must address himself to is to what extent it is appropriate that police forces—of whatever nature—should be involved in a strike issue.

Obviously in this case—and I know nothing about the facts; ignorance is no excuse—if there were violence the police have a very definite role to play, without any question. I think there is somewhat of a perception, however, that the police are drawn in in these industrial matters and that the appearance in their performance of their duties is that they become somewhat one-sided in the whole issue. There is sufficient evidence given by Mr. Foulds to raise the questions for the Solicitor General. As a matter of fact, I think it's sufficient to address the attention of the Attorney General of this province.

Police officers have duties to perform. We have to remember that they are in a highly disciplined force—whatever the force—and they can be personally disciplined if they do not pursue their function adequately in accordance with the judgement of those in the chain of command. I think all of this leads to problems for the actual police officer. It leads to problems for the force. The chief crown law officer of this province must address himself to this in some meaningful way.

I think there has to be an answer in that knife case.

I have to tell you from the cases that I've had here, one of the reasons I dwelt on the charges of assault by police in the Attorney General's estimates and the attitude of the crown is because I have a case which I have given to Mr. Campbell—no relation—of a 100-pound woman who was pulled out of a vehicle, allegedly, knocked to the ground, allegedly, and when she complained to the police about that activity, was charged with assault.

It seems to be a standard practice for these assault charges to be laid, and I think there should be a look at just how frequently they're laid and what real evidence there is behind that laying, because if those charges are not laid with judgement it can become almost a tool against the citizen, or it can be perceived in that way.

I think that's what this lady's saying, I think that's what this lady from Etobicoke is saying, and I think that's what the public perceives. That is important to be addressed.

Could I now know, on top of all of that, if the crown is here, if he came at the request of Mr. Renwick? Are we going to deal with that matter at this time, because that was the other issue which seems to be in limbo as a result of our morning's discussion? I would like to know because I would like to get into another matter and the time is so short. I would like some direction on this.

Hon. Mr. McMurtry: I would like to get back to that matter too. As you know, under the Police Act, section 60, if the local board of police commissioners requests the assistance of the OPP they have an obligation to respond.

Mrs. Campbell: Without question, but I think you have to look at that; with due respect, I do.

Hon. Mr. McMurtry: We have been looking at it very carefully for some months because we are very concerned about these allegations. I think the bottom line is that this perception of police on one side and union people on the other side of these issues is really not an accurate reflection of what it is all about. Basically because police officers bargain for wages, they share the same problems that union people have, basically that we all have, trying to feed our families and support our families. They are involved in negotiations with employers. I think it is important to appreciate that they have many concerns in common. Police officers who—

Mr. Renwick: Mr. Chairman, if I may interject, I don't think there is any problem in understanding that. It is not the blanket conception at all. For example, the actions of people whose judgement I believe to be very good, the Metropolitan Toronto police, with respect to the strike at Blue Cross in Toronto have been almost a model of police activity in this area. They have been exceptionally evenhanded, exceptionally courteous where there have been some difficult situations, and have the respect of both of the people who are on the picket line and, presumably, they have the respect of the people who, for whatever reasons, are crossing that picket line.

Mr. Kerrio: I think that is the crux of the whole question.

Mr. Foulds: That's right.

Mr. Kerrio: Let's get back to the fundamental problem. The legislation says that people should be allowed free ingress and egress while there is a strike on. Isn't that where it all starts? We either have to change the legislation—I don't want to debate that

issue, but isn't it right and proper for people to be allowed in and out of a plant while it is on strike? Isn't that the law?

Mr. Renwick: That's what the law says, of course.

Mr. Kerrio: But in the event that someone tries to stop them from doing that very thing, isn't that always the case where the police become involved?

Mr. Renwick: I don't think we should be discussing the substance of what an information picket is and the problems involved in it. It is sufficient to say that if somebody in an automobile drives at an undue rate of speed where there are strikers in existence, you have a situation which requires a great deal of care.

Mr. Kerrio: Even if they walk.

Mr. Renwick: I'm not talking about which side of the fence you and I are on. We are talking about the police being evenhanded in a situation which is extremely difficult because of the different attitude you have from the attitude I have, you being a company person and me being a union person.

Mr. Kerrio: I accept that. We are what makes this country go.

Mr. Renwick: I don't want you to misstate it. It's the evenhandedness of the police which is important, and some police forces seem to be able to deal in difficult situations extremely well.

Mr. Kerrio: Absolutely.

Mr. Renwick: Others deal very poorly.

Mr. Kerrio: Some union people conduct themselves the same way, let's accept it.

Mrs. Campbell: I think the difficulty is that the Metropolitan Toronto police force has come under fire in other strike situations. All forces come under fire. There is no question about that. Mr. Renwick doesn't believe we should look at the blanket situation. I think we have to, for the sake of the police forces themselves and for nobody else. Various police forces have been under fire in many strikes. I think it behooves the Solicitor General, and ultimately the Attorney General, to look at that basic issue. If Mr. Renwick disagrees with that, I'm sorry. I think it is an important matter to be considered.

Mr. Renwick: It has been at least three or four years since there has been any allegation of any serious consequences, other than in the heat of the moment, with respect to the action of the Metropolitan Toronto police in strike situations. They seem to know how to go about their business. The Ontario Provincial Police's record, so far as we are concerned, is not good. It hasn't been good, wasn't good at Fleck, and wasn't good on the basis of the matters that my colleague has raised. Therefore we want to make distinctions. We don't want to say there is a general prevailing view among the union movement that the police are on the side of the companies. There isn't. Each situation is a different one.

Mr. Kerrio: That's the mood you were creating over there.

Hon. Mr. McMurtry: I just want to make one observation. The OPP are called in, generally speaking, only when the situation is out of control so far as the local police force is concerned. They do face the most challenging situations, often very ugly and very difficult. We all agree the OPP has the overall confidence of the community to a high degree. It is continuing to monitor its role in this respect to reduce wherever possible this type of confrontation.

I guess in an ugly strike situation such confrontations will always occur to some extent. The police are caught in the middle. When there is a very serious issue between the company on the one side and strikers on the other, and emotions are running high, it is the police who really inherit the wind, and it is a very difficult role.

Mrs. Campbell: But there is one point that Mr. Foulds made, too, that was rather peripheral as he made it. Is it a fact that the police did put their equipment at the service of the company to assist the company officials—the helicopter service? I think that is important for us to know.

Hon. Mr. McMurtry: I can't imagine that would have occurred.

Mr. Foulds: I can't imagine that happening either.

Mrs. Campbell: But could we see whether it did occur, since it has been alleged?

Hon. Mr. McMurtry: Commissioner Graham is here and said that it did not occur.

Mr. Acting Chairman: I don't know if you have further supplementaries on this—

Mrs. Campbell: I am waiting for the response to my question on the crown involvement and the minister was cut off in responding to me.

Mr. G. Taylor: Might I add a supplementary to yours, Margaret? It's the physical setting—

Mrs. Campbell: Good boy. I didn't know you were here.

Mr. G. Taylor: I heard Mr. Renwick say how well the Toronto police act. I quite fully

believe him. But we have two different physical settings which I would like to have discussed. In many of the Toronto situations where you have union, police and management conflicts, the total physical setting is different from what the OPP have to deal with. In the Toronto situations, such as the Blue Cross, more people are walking to work and walking across the picket line as compared to the one in Jim Foulds' riding, the one in my riding, the one at Fleck, where most of the people have to arrive by automobile.

Therefore you do get a different situation, where it is not crowd on crowd, or human on human. There is an automobile against a human. Thus, you get a different situation —one where conflict can arise more easily. The animosity against an automobile is more likely than the animosity of human against human where the police can intervene. The OPP generally is involved in more automobile situations as compared to the human situations inside Metropolitan Toronto.

[11:00]

Hon. Mr. McMurtry: I think the principal difference between, say, the Blue Cross strike and Boise Cascade is that on one hand you are dealing with office workers and on the other hand you are dealing with some pretty husky loggers, bush workers—

Mrs. Campbell: Of whom you were one.

Hon. Mr. McMurtry: —of whom I was proud to be one for several summers. You are dealing with a different personality. I came to know at first hand the rugged individuality of the logger.

Mr. Renwick: How would you describe the people at Fleck?

Hon. Mr. McMurtry: I am not as familiar with the Fleck situation as I am, I think, with the Boise Cascade—

Mr. Renwick: Everybody recognizes that obvious point. As a matter of fact, the actual incidents observed on the Blue Cross line, which required a very evenhanded treatment by the police officers, involved automobiles. It involved the conflict which arises when mechanical vehicles are used to transport people through a picket line where the pickets believe they have the right to picket peacefully for information purposes. It is extremely difficult to convey information with the windows closed on an automobile going through a picket line—even subliminally.

Mr. G. Taylor: It sounds like the type of situation where you get the hypothetical. What if you have a blind person going in? How do you convey information to them? Some may even be deaf.

Mr. Acting Chairman: Mrs. Campbell would like to know, Mr. Attorney General, about the crown's involvement in the Boise Cascade situation. Can you explain that?

Hon. Mr. McMurtry: Mr. McLeod is with us again. As you know, he is the head of the criminal law branch of the Ministry of the Attorney General and therefore has some responsibility for the crown attorney system.

Mrs. Campbell: He is having a tough time these days.

Hon. Mr. McMurtry: Mr. Saranchuk was not available today, but we have communicated with Mr. Saranchuk. I think Mr. McLeod may be able to assist us further. I have not had an opportunity of ascertaining myself, specifically, what additional information Mr. McLeod may have.

Mr. McLeod: Thank you. As I understand it the question relates to the apparent large number of withdrawals of charges, at least in part. I believe some explanation is sought as to why there were so many charges withdrawn.

Mrs. Campbell: My question related to the conflict between the testimony of the police officer under oath—to the directions or instructions or implications or whatever they were that he had regarding special treatment of strikers as opposed to company people or as opposed to citizens at large. There seemed to be a real conflict between the sworn testimony of the police officer, who was not an OPP officer, and the crown in this case. All we had was a letter from the crown which, if you are testing evidence, I think would have less evidentiary value than the sworn statement of the police officer.

Mr. McLeod: I have reviewed that letter which I think you have, Mrs. Campbell.

Mrs. Campbell: I don't know that I have it. I just heard it read and I am not good at taking it in when it is read.

Hon. Mr. McMurtry: I'll undertake to file the relevant parts. There is some obiter comment in relation to dealings—I have read all of the relevant parts into the record. There were some comments by him with respect to some discussions he had with media individuals and journalists. It would serve no useful purpose for me to distribute that. We are dealing with a letter that was written in confidence from the crown attorney to one of his seniors.

Mr. Foulds: One of the difficulties is that the transcripts of these committees take about a week to be—

Mrs. Campbell: They take a long time.

Mr. McLeod: Could I go back and just highlight the important parts of it for you? I think the first thing to point out is Mr. Saranchuk's report to us at our request. His report is to the effect that at no time did he ever give the police the type of instructions that was referred to by the officer when the officer was cross-examined on the show-cause hearing. I think you have seen the transcript.

The officer did indicate, when cross-examined during the show-cause hearing, that he had some instruction from the crown to the effect that in the strike situation there was supposed to be a three-day remand. There is no doubt about that. I would suggest the first thing to take into account is Mr. Saranchuk's own recollection as to the type of instructions that he did or did not give to police. His very clear recollection is that there was no such instruction given. Obviously, therefore, there is the conflict that you have referred to, Mrs. Campbell.

I think the next thing to go to is the fact, as indicated in Mr. Saranchuk's letter, that when advised of this testimony, Mr. Saranchuk took it upon himself to go to the police to try to find out what on earth it was that moved this officer to make the statement that he did. Mr. Saranchuk spoke with the officer in question, and also with his chief. After that discussion both of those men have communicated to Mr. Saranchuk their now clear view that the officer was mistaken in his testimony. I think the reason or the basis on which he now realizes that he was mistaken is clear. If you will permit me I will try to point out what, to the best of our knowledge, we can ascertain is the way in which he got confused.

Mrs. Campbell: That's what I want to find out.

Mr. McLeod: We think Mr. Saranchuk, in conversation with the police in any case where people have been arrested, has undoubtedly, as many crowns around the province have done, explained to them first of all —as he indicates in his letter—and I think I should read it; his words are perhaps more important than mine: "I think what the officer was trying to say"—that is when he was testifying—"is that if the police saw fit to arrest someone and if they saw fit to detain him for a show-cause hearing, then they would be shackled by the system" with regard to when a bail hearing was to be held because bail hearings are held Mondays, Wednesdays and Fridays at noon. The Criminal Code provides that any adjournment for a show-cause hearing should be for a maximum of three days, and the local practice is to remand the accused in custody for "three days or sooner."

Mrs. Campbell: Could I stop you there? The Solicitor General or the Attorney General—I'm getting awfully confused in the roles—in an earlier matter pointed out that it was the custom of the crown in other parts of Ontario where they do not have frequent show-cause hearings to consent to the release. One of the reasons I wanted to see the crown was to ask what his position was in that matter. His letter seems to indicate that they are shackled by a system which doesn't permit that kind of activity.

Mr. McLeod: I would respectfully suggest no.

Mrs. Campbell: All right. Then what is your answer?

Mr. McLeod: The answer is clearly that the practice of the crown in that jurisdiction is exactly the same as the Attorney General indicated—

Mrs. Campbell: How is that clear from what he has written?

Mr. McLeod: In this particular letter? I'm sure it is not clear.

Mrs. Campbell: You have accused me of being mistaken. I want to know.

Mr. McLeod: But the letter doesn't speak to that issue.

Mrs. Campbell: No. It speaks very clearly to the fact that they are shackled by the system.

Mr. Renwick: It is the guy who exercises the discretion.

Mrs. Campbell: That's right. They are shackled by the system and will have to be held in custody until the show-cause hearing is heard. How clear does that crown have to be? You say that he is following the same practice as, we were given to believe, was in operation in the rest of Ontario. In Toronto it wouldn't likely occur because we have show-cause hearings every day but Sunday.

Mr. McLeod: I think what we have to do is go to the rest of the letter and look at what happened with respect to the rest of the cases.

Mrs. Campbell: All right. That's fair. How many were released by his consent, or with his consent? I ask you to ask him that before this hearing today.

Mr. McLeod: Looking at page two of his letter, he has indicated in his report to us that not all of the accused were remanded in custody and that in this particular case the

accused was arrested at 3:30 p.m. on a Thursday, and the show-cause hearing took place at 1:30 p.m. on the Friday, so he was in custody for approximately 22 hours as opposed to three days, which shows how the "three days or sooner" practice works in a particular case.

I suppose one might superficially question the wisdom of the court indicating three days or sooner, when they know full well there is going to be a show-cause hearing available the next day. In the ordinary course one might have expected them to say "Remanded until tomorrow," rather than "Remanded three days or sooner," but the clear practice is that anybody awaiting a show-cause hearing who is ready to proceed will be dealt with at the first opportunity.

Mr. Foulds: Could I just intervene for a second? I'm not a lawyer. It is my understanding that you keep people in custody overnight in cases like this when you think they won't show up the next day.

Mr. McLeod: That is half of it, sir. The Criminal Code provides that there are two reasons why an accused person can be retained in custody. The two reasons are, number one, if there is some reason that he is not going to show up, and the second reason is, if there is some indication that it would be contrary to the public interest; for example, a possible continuation of the offence, some risk of some injury to some person or to some property. In any of these individual cases I am not equipped today to tell you which combination or which factor was operative in the mind of the police officer or the crown at that time.

Mrs. Campbell: We need to know it.

Mr. Foulds: That's the crux of the matter, because in this particular case you had a man whose wife and children were in town, he had no previous arrests—

Mr. McLeod: Can I just go back and clarify one thing? At this initial stage, particularly in the Norman Meyers case, where the officer testified the accused was arrested at 3:30 p.m., the crown would, in the ordinary course, not have any involvement prior to the show-cause hearing at 1:30 the next afternoon. The initial decision would be by the police officer, "Is it necessary for me, under the provisions of the code, to keep this accused in custody for a show-cause hearing, or should I release him now?" As I have said, some of the accused were released forthwith. Others were detained for the show-cause hearing the following day.

Mr. Foulds: An unusually high number of them were detained overnight.

Mrs. Campbell: May I ask, did you, in specific terms, ask the crown what he did with reference to consent? I asked that question specifically, I believe, at the last meeting. I wanted to know what he did.

Mr. McLeod: It may be my fault for not getting enough information and I certainly apologize if it is. The way I understood your question, it was related to this testimony in this transcript in the Meyers case. In the Meyers case, the show-cause hearing took place at 1:30 p.m. on the Friday and with the consent of the crown the accused was released.

Mrs. Campbell: I am sorry, it was not with reference to a specific case. It was with reference to the practice, because I am concerned for one, and I think the Attorney General must be concerned for another, that people be treated equally across this province. It shouldn't be simply a matter that because in Metropolitan Toronto we have show-cause hearings every day but Sunday, never on a Sunday in this city, but they do use the consents frequently, as I understood it, in other areas because of the lack of show-cause hearings. I am sure the Attorney General told us that.

I wanted to know, in the case of this strike, what this crown did about these charges where people were held, as I understand it, for longer than the period indicated in this specific case. If I didn't make it clear I am very sorry, but I was as clear as I could be in my own mind as to what I wanted. The shackling by the system confirms to me that that practice was certainly not being used for the assistance of these people, in the mind of the crown himself. That bothers me.

[11:15]

Mr. Renwick: It's quite clear that what the crown is saying is, "If those events take place, I have nothing further that I can do about it."

Mrs. Campbell: That's right, and it is up to you to decide whether they should be there for whatever length of time they have to be there. That is a very important matter to me.

Mr. Renwick: The police are in a difficult position then, and the police have to remand them over.

Mrs. Campbell: They have to, they haven't any choice. The letter doesn't help me on that.

Mr. Foulds: It's certainly not with the understanding, up until that point, of that police officer. I wonder how many other police officers had that understanding until Mr. Saranchuk advised them otherwise.

Mrs. Campbell: I think there are two points. I took it from the evidence of the police officer that there had been instructions. That is one point. The other point is the attitude of the crown, which is something that is under discussion here, and it seems to me that from his own mouth he has certainly indicated that once the system starts he is no longer involved and it is up to the police to exercise their discretion.

Hon. Mr. McMurtry: That is certainly not my interpretation.

Mrs. Campbell: Then I would like to see the letter. I'm sorry I am not good, as I have said before, at trying to deal with something read to me.

Mr. Renwick: On the first point, it has to say what his instructions were. All it says is these weren't his instructions.

Hon. Mr. McMurtry: As you know, in the first instance the police don't have to hold the individual for show cause.

Mrs. Campbell: That's right.

Hon. Mr. McMurtry: A promise to appear is often enough.

Mr. Foulds: That's the main point that I am worried about. The officer indicated that up until the strike that had been the practice.

Mrs. Campbell: If you reread the "shackled by the system" business, "shackled" is a very strong word for me. To be shackled by the system, he is saying no discretion. I can understand the police officer having problems.

Mr. Acting Chairman: Are we prepared to distribute that letter to the committee members?

Hon. Mr. McMurtry: We will reproduce the relevant sections of the letter.

Mrs. Campbell: With the understanding that the parts which are not reproduced deal solely with his problems with the media. I don't think that is going to be very relevant here—how the media handled it and what problems he had.

Mr. Foulds: It is difficult to make that judgement.

Mrs. Campbell: It is, without seeing the letter.

Mr. Renwick: We are not engaged in criticizing the crown attorney up there, we are engaged in criticizing the Solicitor General and the Attorney General with respect to the operation of that system.

Mrs. Campbell: That's right.

Mr. Renwick: We don't have all of the instances but we have the instance I was dealing with, my colleague has been dealing with, and other instances. It is a criticism of the ministry. We're not engaged in trying to cause the crown attorney in that part of the world difficulty.

Mrs. Campbell: The crown himself may be under very serious misapprehensions as to what his role is. We seem to have seen that in the case of other crowns.

Mr. Renwick: That's right.

Mrs. Campbell: I have tried to make that clear.

Hon. Mr. McMurtry: I don't think he is under any misapprehension as to what his role is.

Mrs. Campbell: Then may I ask the Solicitor General: Would you agree with the words he has used as to being shackled by the system? Would you not say that they should not use those words of what you say is the system?

Hon. Mr. McMurtry: The words perhaps are capable of causing confusion in some persons' minds.

Mrs. Campbell: If one uses the word "shackled," shackled by a system, shackled in any fashion, it is a very strong word to use, and to use it with reference to the administration of justice system chills me greatly. I'm sorry we're not ad idem on that.

Hon. Mr. McMurtry: I suppose it depends on what you mean. I suppose we're all shackled by the law to some extent.

Mrs. Campbell: Oh, I don't think so. I don't think we're shackled by the law.

Hon. Mr. McMurtry: If you believe in a society with a rule of law, some people would say we're shackled by the law because we're governed by the law. I think you're placing too much importance on the word "shackled."

Mrs. Campbell: We disagree. I think if you'd said that you are then within the system, that's one thing; but shackled by the system, no.

However, that concludes what I can say. As I understand it, we as a committee are not here to deal as a court of inquiry into the individual cases even though we are all deeply sympathetic to the views of those whose letters have been read, and I'm sure the Solicitor General is deeply sympathetic. I don't think we're in a position to become investigators ourselves and that's why I've tried to keep the two points separate.

I am not a police officer. I do not have investigative expertise, nor do I wish to have it, but I would like to hear further when that investigation is over, and I trust we will be advised of all of these matters at the time

when the minister is able to make his position clear, even on individual cases, at that point.

Hon. Mr. McMurtry: I'm not sure just what you mean by that. Before we deal with that, I just want to make the point that we made in relation to the matter of the Barrie hearing. In relation to the Barrie matter—I don't think Mr. Foulds was here during that discussion—the point I made there is when there are no bail hearings scheduled the local crown attorney is supposed to be available to consent to release in the appropriate case. If there are hearings Monday, Wednesday and Friday, the local crown attorney is available. It doesn't necessarily mean he will always consent—

Mrs. Campbell: No.

Mr. Foulds: We all understand that.

Hon. Mr. McMurtry: —but he is available to consent to a release.

Mrs. Campbell: If someone is picked up in that area on a Friday, after the show-cause hearing, one realizes he will go over until Monday automatically on the reading of that letter. That's the kind of thing I am pursuing.

Mr. Foulds: I just have two or three summary comments I wanted to make because of the Solicitor General's response. I think it is important that what we understand here is that it is not, as has been indicated, the individual police officer or the individual crown or whatever that we're concerned with. That's a matter for the discipline of the Ontario Provincial Police itself, or of the Attorney General's office or whatever.

But when you have, as we have had in the conflict between Boise Cascade and the Lumber and Sawmill Workers Union, a number of incidents and a number of illustrations that go from the crown's actions, the number of charges laid against one side by the OPP, the number of charges withdrawn; when you get what appears to be a mind-set that all of the spikes incidents and all of the bombing threats were attributable to the strikers, or that the evidence is in the Lumber and Sawmill Workers Union office or with their officers, then I think people have a genuine reason to be concerned.

I think what has happened is that the Solicitor General and through him his various agents have lost the confidence of certain constituencies in northwestern Ontario and that's terribly unfortunate. I say that as directly and as sincerely as I can.

Mrs. Campbell: It can be fatal; that's the problem.

Mr. Foulds: I'd like to make a second point and then I'm through. I do want to know when we will find out why those search warrants were issued and what evidence you had even to issue those search warrants. We need to find out the truth of that situation. What evidence was there that the search warrants would result in some substantial matter? As of yesterday all of the material has been returned to the Lumber and Sawmill Workers Union.

The quashing of the search warrants in practice doesn't mean anything really, but in theory it's very important. In law it's extremely important. It means the search warrant should never have been issued in the first place. And it means the search that was conducted under the authority of those search warrants should never have been conducted.

I think those are the points of principle that need to be addressed.

Hon. Mr. McMurtry: As I indicated to you before, I'll try to ascertain for you, Mr. Foulds, the circumstances—

Mrs. Campbell: For the committee.

Hon. Mr. McMurtry: —so far as what the nature of the application was that led to the issuance of the search warrants by the local justice of the peace.

The Boise Cascade strike was and is a particularly difficult conflict because it wasn't just management versus union; there was considerable discord among several unions as I recall.

Mr. Foulds: Between one.

Hon. Mr. McMurtry: Yes.

Mrs. Campbell: How can it be between one?

Hon. Mr. McMurtry: One of the unions there, of course, was very much involved in the request for OPP assistance. It's unfortunate if the OPP, as you say, has lost the confidence of any individuals in that area. If that has occurred I really think it involves very few people. Certainly reports I've seen would indicate that the OPP were faced with very difficult situations and the general consensus is that they responded very well.

I think Mr. McLeod has some additional information dealing with the withdrawal of some of these charges that might be of interest to you.

Mr. McLeod: Mr. Chairman, there were a number of reasons and I hope I can summarize them for you quickly.

First, there were situations where one accused was charged with more than one offence, and quite properly so, by the police at that early stage. But when it was before the court to proceed, the crown—depending

on the facts in a variety of individual prosecutions—withdrew the lesser charge after first obtaining a conviction with respect to the principal one. That is a perfectly normal and proper procedure.

Second, there were incidents where multiple charges were laid against a number of people arising out of a particular incident. The crown in his discretion on some occasions withdrew charges against persons who were, in the crown's view and the police view, less involved than others who were earlier convicted. Perhaps the colloquial way of putting it might be that in some situations where "ringleaders" were convicted, then persons with less involvement in respect of some of those, the crown withdrew the charges.

This is sort of difficult to discuss in a vacuum, but it is a practice which occurs I think fairly often, especially in this type of situation. In these cases there are people who get swept up in a crowd involved in an offence of—let's say—intimidation or obstructing the police. It may well be that even though there is clearly evidence to cause them to be charged in the first instance, the ends of justice may be met by dealing with those at the court appearance time who were, in the view of the crown, more seriously involved than some others.

[11:30]

Third, there was a very small number of cases where the crown was of the view that the evidence did not support, or would not support, a conviction. In his discretion, he withdrew the charges. That again is a usual stance for the crown to take if in his considered view, after applying his expertise with respect to what evidence is admissible and what isn't, he decides that it should not proceed.

Fourth, there were cases where the crown was bound by earlier adverse findings of fact in earlier trials. To put that another way, let us say two accused were charged separately arising out of the same incident and a witness for the crown was called at the first trial and the trial judge found that his evidence simply was not credible for some reason. The crown in that type of situation, rather than go through the procedure of trying to prosecute the second accused knowing full well the judge is going to make exactly the same finding with the same evidence, will withdraw in many cases like that.

Finally, there was one charge of common assault where the victim had moved to Nova Scotia as of the time of the trial and the crown did not consider it was appropriate to go through the expense of bringing that person back from Nova Scotia to testify.

Mr. Foulds: My only comment concerns the figure I gave you of 172. I understood that those 172 charges were sort of a reduction, leaving aside that first category. In other words it already had been reduced to the sort of basic charges.

Mr. McLeod: The figures I have with respect to Boise Cascade are that there was a total of 204 charges laid by all police forces. There were 60 convictions.

Mr. Renwick: How many individuals?

Mr. McLeod: I don't have that, Mr. Renwick, I'm sorry. Perhaps the police may have that information.

Mr. Renwick: Perhaps at some point you can get it for us.

Mr. McLeod: Thirty-eight acquittals or dismissals; 99 withdrawals, three conditional discharges; one absolute discharge; three cases with no disposition.

Mr. Foulds: Three still outstanding?

Mr. McLeod: I can't even tell you, I'm sorry, whether those are still outstanding. A no-disposition could be an application of a principle laid down by the Supreme Court of Canada about four years ago in a special situation where rather than acquit or convict, the court simply doesn't render a verdict. It could be either that or still outstanding. I suspect it's the former.

Mr. Foulds: I don't want to quarrel with your figures; they are obviously more accurate than mine. When I had the 172 that was with the one firm that I knew was handling most of the cases on behalf of the Lumber and Sawmill Workers Union itself.

I think it is important for us to keep one point in mind. When one of the conditions of release was that you stay away from the picket line, when you charge a large number and then proceed with conviction against "the ringleader," that can be an unjust tool. I'm not saying it was, necessarily, but I think it has to be exercised with extreme caution. In this case charges were laid in January and February—most of them—and not disposed of till June. This means that for four key months it kept manpower away from the picket line on behalf of the striking workers.

Mr. McLeod: Undoubtedly at the time both the police and the crown are performing their functions they must exercise extreme caution. There were, with respect to the charges of intimidation, a very large number of people who, in the crown's view, were people simply caught up in something

that was started by—in this situation I'm thinking of—five ringleaders. Those five ringleaders were proceeded with and convicted. The crown exercised discretion, which it had. I suppose some people might say the crown was possibly a little too humane. The crown said, "These people are ordinary law-abiding citizens. They have got caught up in this thing and I just don't think the ends of justice demand that I go ahead when the five people most importantly involved in it have now been convicted." He withdrew. I can't quarrel with that exercise of discretion by him on the site at that time.

Mr. Renwick: In that situation in the United States it's called unconstitutional. It's a tool used by the police to break up lawful demonstrations. The cases are then withdrawn. Those cases were tested in the United States and held to be an unconstitutional use of the police.

Mr. McLeod: It would seem to me that if there's evidence to indicate it is being used as a tool by the police, it is very wrong. Our inquiry of the crown officials involved revealed that simply was not the case. It wasn't a case of the crown thinking or even suspecting that the police had done that and withdrawing for that reason. It was for the reasons that I just told you.

Mr. Renwick: Did they have the evidence or did they withdraw having the evidence?

Mr. McLeod: The evidence was there.

Mr. Foulds: The point is that even with your statistics, the percentages aren't much different. You have a 28 per cent success rate, which isn't very good.

Mr. McLeod: We don't really think of it in terms of a success rate.

Mr. Foulds: No, I don't either. But in this kind of situation the charge doesn't make a person guilty, but the charge removes the person from his activity to support his cause. When a charge does that and you have 72 per cent of the people thus charged thus removed from physically supporting their basic cause, I think there needs to be some serious look taken at the situation.

Hon. Mr. McMurtry: Mr. Foulds, what you seem to be saying is that perhaps the crown attorney should have proceeded on all of those charges, that perhaps he was overly lenient.

Mrs. Campbell: No, that's not what he's saying and you know it.

Hon. Mr. McMurty: Just let me finish please, Mrs. Campbell. Mr. McLeod has explained why a number of charges were withdrawn in relation to charges of intimidation because there were five alleged ringleaders who were convicted. That number of charges wasn't proceeded with because the crown attorney, in the exercise of his discretion—as Mr. McLeod has said—felt they were ordinarily law-abiding citizens who were caught up in a highly emotional situation. It has nothing to do with whether they could have been convicted or not or whether he had the evidence, but Mr. McLeod's information was that the crown attorney decided—

Mr. Foulds: We will never know that.

Hon. Mr. McMurtry: —not to proceed.

Mr. Foulds: We will never know that because they did not proceed to trial with the charges and only a judge could make that decision.

Hon. Mr. McMurtry: Perhaps the crown attorney will bear that in mind next time—

Mr. Foulds: Perhaps as Attorney General you're saying that the crown should proceed more vigorously.

Hon. Mr. McMurtry: —and proceed with the charges. Perhaps the crown attorney should have proceeded with the charges in order to satisfy you with the success rate. I think you are not being very reasonable so far as the crown attorney is concerned in this case.

Mr. Foulds: I'm just looking at this as a layman who sees a situation in my part of the province which has not been handled well, which has alienated, I think, a legitimate and sizeable constituency from the confidence of the law enforcement of this province. I think that's a tragic situation.

Mrs. Campbell: I'd like to make my situation abundantly clear. I did not think Mr. Foulds was asking—if he was, then I don't agree with him—that the crown should have proceeded.

Mr. Foulds: I was not asking that at all.

Mrs. Campbell: I think he was suggesting a look at a condition for release, which condition really offended a person's constitutional right to be on the picket line in a legitimate strike. That was what I read into it. If I'm wrong, then I'm subject to being corrected. I think it's totally wrong to take the position that the charges should have been proceeded with. I think that we look at the kind of condition imposed and whether or not that has constitutional validity, since of course a charge does not thereby render you guilty as charged. I'd like the Attorney General to look at that, because I think it is a constitutional matter.

Hon. Mr. McMurtry: I think the disagreement here is that in Mr. Foulds's interpretation of the events the charges that were withdrawn were, in his view, withdrawn simply because they shouldn't have been laid in the first place.

The position that the crown attorney is taking is not that the charges should not have been laid in the first place, but that in his view, given all the circumstances, he didn't feel the ends of justice would be best served by proceeding with the charges.

If Mr. Foulds is right, that there were charges laid that shouldn't have been laid and therefore had the effect of taking people off the picket line, that is clearly wrong.

Mr. Renwick: You do a disservice to the issue. The issue is that what we are pointing out is not whether you're right or Mr. Foulds is right or whether anybody's right or wrong. The fact of the matter is that we're pointing out to you that in an extremely sensitive and extremely difficult situation—not a tea party at all—there has to be an extremely wise exercise of judgements by the police and by the crown at the time when these events occur. That was the point.

My reference to the United States was a specific demonstration where a large number of people were engaged in a demonstration and the police, in order to break it up, arrested and detained a large number of people. When the cases came to the courts a large number of them weren't proceeded with. In those that were proceeded with because the prosecution felt the matter raised a matter of principle, it was held to have been an unconstitutional use of the power.

It's not whether you're right or whether we're right. The question is, in that kind of a situation the police must not be seen as achieving their ends by laying charges and removing people from a picket line unless they are very sure that the charges which are laid are totally justified in the circumstances.

On the other side of the coin—it's an equally good argument; and I know the burden on the administration of justice system; I know the burden that's involved in a large number of these cases—it may well be that it would be wise to proceed with those cases and that the ends of justice might best be served by leaving the leniency question up to the presiding judge with respect to a conditional discharge or an absolute discharge in a case.

The other point that Mrs. Campbell quite properly raises is: On a show-cause, can you impose as a condition of the release of a person that he not participate in an otherwise lawful activity of his; that is, participate in a picket line? I think that is a very valid question, so it's not who's right and who's wrong.

Hon. Mr. McMurtry: There has been no issue—and I think perhaps inadvertently you are clouding the issue further—nobody has for one moment suggested that the police should use or abuse their right to effect arrests. If arrests were made that should not have been made then that was clearly improper, but I never thought for a moment that was an issue. I think the police are well aware of that.

It is my understanding that in relation to term of bail release in the appropriate circumstances the court can impose a condition that the person not get involved in the picket line again, because the whole purpose of an order or conditions is to prevent what the court views as the likelihood of a repetition of the alleged offence. Perhaps Mr. McLeod would like to add further to what I've said.

Mr. McLeod: The code provides in section 457 that the court can require an accused who is being released to comply with any other reasonable condition that he wants to specify.

[11:45]

Mrs. Campbell: The word is "reasonable."

Mr. McLeod: Yes. Let's take a hypothetical situation. If the crown says to the court, "We think this man should be detained in custody, not because we are worried about him fleeing but because we are worried that there is a danger to the public, because we think he is going to repeat the offence," the court can then come back to the crown and say, "Why don't I release him and make the condition be that he not go to that scene? Isn't your worry then covered?" The crown at that time, if he is being reasonable, says, "Yes it is." The man is released on that condition.

Mr. Renwick: Mrs. Campbell is simply saying that it is a question that may involve deeper considerations than is encompassed in the word "reasonable."

Mr. McLeod: Then that would presumably be a matter for the Parliament of Canada, having regard to what the Criminal Code now says.

Mr. Renwick: Or the courts as a matter of law.

Mrs. Campbell: May I just make two observations? We have to remember that in this case, as I understand it—correct me if I am wrong—the crown who dealt with these matters was not the local crown. That's correct. There may easily have been a difference of opinion between two crown law

officers. We all know the story that if two lawyers are gathered together there will be three different opinions. It is important to bear in mind in this case that the crown who was brought in was brought in from southern Ontario, I believe. Is that not correct?

Mr. McLeod: Mr. Borda from Brantford.

Mrs. Campbell: That's what I thought. Again one perhaps ought to, in conscience, look at whether there are different approaches in different parts of this province.

The other thing is—and I think it has now been clarified—as I understood it the Solicitor General questioned the figures of Mr. Foulds, not on the matter of their accuracy but as to how many charges were actually laid by the police. I take it that has now been clarified with the statement made today.

Hon. Mr. McMurtry: I'm not sure. I don't think I was questioning Mr. Foulds's figures because I—

Mr. Foulds: It's just the way it was read into the record. You had 210. I was quoting 172.

Mrs. Campbell: No, it wasn't the quantitative thing. It was the statement, as I understood it—and I haven't seen the transcript yet—that the Attorney General indicated these were not all charges laid by the police. I take it now that they were; the charges as given to us by Mr. McLeod were charges laid by the police, either OPP or local police forces. Is that correct?

Mr. McLeod: Yes, I can give you the breakdown.

Mrs. Campbell: It was over 200 charges by police and not by any other authority.

Hon. Mr. McMurtry: I don't think anybody was talking about any other authority laying charges.

Mrs. Campbell: I will have to look at the transcript.

Mr. Foulds: Some charges were laid by private information.

Hon. Mr. McMurtry: That may be.

Mr. Renwick: Are those charges all the charges that were laid, or are those only the charges on which they were proceeding?

Mr. McLeod: Oh, all charges.

Mr. Renwick: All the charges that were laid, even though a number of them were withdrawn as a result of convictions?

Mr. McLeod: Yes, 204 charges were laid, then I went on to do convictions. I also have that other figure you wanted. The 204 charges laid involved a total of 99 persons.

Mr. Renwick: So most of them were subjected to two charges?

Mr. McLeod: Sorry, I can't answer that without knowing more detail.

Mr. Renwick: You did use the word "multiple" at one point?

Mr. McLeod: Yes. There certainly were a number of situations where, for example, the relevant charges we are talking about, I suppose, are "obstruct police," "assault police," "wilful damage" and "intimidation." The officers point out there were people charged on more than one occasion.

Mr. Renwick: I don't mean today, but is it possible to analyze each of those—I'm not talking about identifying the persons who are involved—as to exactly what happened to each of the 99 persons? Case one, what charges were laid? Case two, what charges were laid? On the 99 cases, show the disposition coming out to the results you have. I would be very interested to see exactly what that pattern shows, what the charges were against each person, and what the ultimate disposition of each of the charges against each person was. Is that a possible statistical analysis that could be done for us?

Mr. McLeod: Yes.

Mr. Renwick: There is no hurry about it, but I would just be interested in seeing exactly what happened to the 99 people charged.

Hon. Mr. McMurtry: Mr. McLeod said there may not be 99 different people. Probably some of those 99 would be—

Mr. Renwick: There may be some duplications there, or different occasions and different offences.

Mr. Foulds: I raised earlier the incident that was mentioned in Mr. Borovoy's letter, about the nonstriker who was not charged in going across the picket line in Fort Frances with a knife and subsequently was charged. I wonder if you could, as Solicitor General, make some investigation of that to indicate why there was no charge laid?

Mrs. Campbell: Or who did eventually charge him.

Mr. Foulds: I certainly don't expect him to have to do that today, but I think the committee and I personally, though I am not a member of the committee, would certainly like that information.

Mr. McLeod: The figure that you were given the other day of 172 or 174—

Mr. Foulds: That was my figure. That was one that I obtained from a lawyer who acts mainly for the Lumber and Sawmill Workers Union.

Mr. McLeod: It might be that the difference between the figures is a function of one

relating to Criminal Code charges and the other relating to all charges. The 204 includes all charges, whether Criminal Code or not. There were some Liquor Control Act charges and some Highway Traffic Act charges as well.

Mr. Kerrio: The NDP research is not as good as it used to be.

Mr. Foulds: Oh, yes, it is. That completes my question. Thank you, Mr. Chairman, and I thank the other members of the committee.

Mr. Acting Chairman: Any further questions re Boise Cascade? Tht committee has spent an awful lot of time on Boise Cascade, but since 10 per cent of the Ontario Provincial Police overtime budget was spent on this one particular strike I think that is in order. We have one question from Mr. Johnson. You are next on my list, Mrs. Campbell, but would you be prepared to yield to Mr. Johnson, who has been very patiently waiting all morning with one question on another matter?

Mrs. Campbell: I think I could be magnanimous, provided I get on and provided my critic gets the first opportunity in the next vote.

Mr. Acting Chairman: We have 15 minutes, Mrs. Campbell.

Mr. J. Johnson: Mr. Chairman, I as a member of this justice committee would just like to pay tribute to our Ontario Provincial Police. As a member of a rural constituency, I find the police force is held in the highest esteem. I also have the opportunity to know many of the officers as in my home community there is a detachment of 40 OPP officers. They are well-respected members of that society.

Concerns that are expressed to me by constituents are basically about the increase in vandalism. Another concern they express is in leniency of the courts. It seems that in many instances the criminals are out of the courts before the victims are out of the hospitals, especially in violent crimes. I don't know whether the two relate, but I am not criticizing the police—in fact I am complimenting them; I think they are doing an excellent job—but I do feel we have an increase in vandalism and I am not sure why. I have a feeling it is disrespect for the law.

Another concern I have relates to the article in the Star relating to your announcement in the House that the government has set up a citizen complaints board. I understand this is for Metro Toronto, but I hope the word is conveyed to the OPP that this isn't something they are going to have to look at down the road. Have you any thoughts regarding that?

Hon. Mr. McMurtry: Dealing first with the civilian complaint review process, I reiterate what I have said on earlier occasions, the local police commissions are supposed to act as civilian complaint review bodies. That is part of their function, part of their responsibility.

Mrs. Campbell: First joke of the day.

Hon. Mr. McMurtry: In some areas of the province that I am quite familiar with I know the local police commission is able to deal with citizens' complaints in a manner that satisfies the great majority of citizens who do have concerns. If citizens are not satisfied at that stage they can go to the Ontario Police Commission, which again is a civilian body which has the responsibility of reviewing complaints against police.

I am not aware of any other municipal council requesting any such additional review component. We recognize that the challenges facing the Metropolitan Toronto police department are considerable, given the size of the community and the diversity of the community. We therefore acceded to the request of the local board of police commissioners and the local Metro council in introducing this legislation.

It is not our intention as a government to introduce this legislation in relation to other parts of the province. If a local council comes to us and says, "We would like to have access to a similar body," we would have to take any such request seriously. But we think the problems relating to police complaints are being resolved, generally speaking, throughout the province through the local bodies that are available to the citizens in their particular area.

With respect to the problem of vandalism, there is no question that this issue concerns every community in the province. I have received expressions of concern from virtually every municipal government over the past two or three years in relation to the growing incidence of vandalism, as well as concerns that the courts are not dealing with these cases seriously enough. The difficulty is that often the public doesn't have the total information that is available to the court, simply because of space limitations which prevent the reporting of all the circumstances. There is also a problem of apprehending some of the offenders.

As I have said before, much of the problem is relating to a changing society where the growth of individual alienation is, for a whole host of reasons, a particularly serious

problem. But we hope the justice system will be able to continue to respond, and hopefully will satisfy the public that it is capable of responding to the extent that any justice system can be expected to resolve a problem that is so broadly based and really very much a social problem.

We hope our community work orders will become more frequent as a deterrent, because obviously, with a young offender it is a very difficult choice for a judge to say whether that person should be incarcerated. The very fact of incarceration can, in many cases, lead or encourage the individual, particularly the young person, to—

[12:00]

Mr. J. Johnson: What about vandalism with respect to restitution for damages?

Hon. Mr. McMurtry: We encourage our crown attorneys to make victims aware of the fact that a court can order restitution for damage to personal property. The issue as to whether the courts had this jurisdiction in criminal matters was resolved, I think about a year ago, by the Supreme Court of Canada. Many orders of restitution are made. It is a very serious problem.

We are going to have something more to say about it within the next week for the Ministry of the Attorney General as to another initiative that is being taken which we hope will be helpful. There is no question but that the problem will not be alleviated to any significant extent unless we can remove some of the basic underlying causes, which of course relate to this growing alienation of the individual.

Mr. J. Johnson: Thank you, Mr. Minister.

Mr. Acting Chairman: I must remind committee members that we are going to be taking a vote at 12:07.

Mrs. Campbell: With reference to what has been said I wrote to the Attorney General as a result of receiving from him some rather lengthy report on vandalism. I thought I was being funny in my letter, but his answer to me indicated that I wasn't, that he took very seriously what I was saying. I mentioned an incident of my own in the courts with reference to restitution. I just wanted him to know I was trying to be funny and I guess I just missed. We Scots are not supposed to have too much of a sense of humour.

I wanted to spend a few moments, if I could, on the matter of white-collar crime in our society today. In police training, what kind of expertise are we developing and to what extent? I have a good deal of material that I can't read into the record, but it would appear that given our population in Ontario and our corporate concentration, an annual estimated loss for this province could well be in the neighbourhood of $2 billion. This includes, of course, the growing incidence of computer offences, this very highly developed technological expertise on the part of the criminal element in our society.

I would just like to read one statement into the reuord from the President's commission on law enforcement and administration of justice, which was conducted in the United States as an investigation. This is the quote that really frightens me: "White-collar crime affects the whole moral climate of our society. Derelictions by corporations and their managers, who usually occupy leadership positions in their communities, establish an example which tends to erode the moral base of law."

I can't go into depth on this situation, but it bothers me as to how any police force is trained to be able to come to grips with what I foresee as a growing crime in our society.

I have no statistics, but it doesn't seem to me we have yet demonstrated that we have developed the expertise to come to grips with it. I would like, if I am wrong, to be corrected. In fact I invite being corrected, because it is a worry to me. I wonder if we could have some discussion on this matter.

Hon. Mr. McMurtry: You are dealing with a vast area of course.

Mrs. Campbell: Yes, I am.

Hon. Mr. McMurtry: The so-called special services or anti-rackets branch of the Ontario Provincial Police has grown significantly during the past decade in order to combat the increasing incidents of commercial fraud, white-collar crime. That again might be a reflection of changing morality. But certainly criminal techniques in this area are becoming highly sophisticated and we as a police force have a significant challenge to face in training our officers to detect this type of commercial crime.

The investigators, who often work closely with accountants, for example, have to be very well trained. The Ontario Provincial Police feel they should have greater resources in this area because of the growing problem. The RCMP are also involved in this field in Ontario, and some of the municipal police forces have some very highly trained officers with respect to fighting white-collar crime and commercial frauds of one kind or another. But it is a question of whether police budgets will be able to keep up with the challenge. It worries me deeply, quite frankly.

Mrs. Campbell: It worries me. One might say that because of limitations in police budgets we are unable to develop the expertise with which to battle this kind of crime; but then we see in our society something that none of us wants—that is, if you are smart enough you can almost operate without too much concern for the consequences. I don't think that is a concept, surely, that is acceptable to the public. I recognize that the Attorney General and the Solicitor General has said he believes the public is not prepared to accept the responsibility financially for the enforcement—even for the administration of justice itself. This seems to be an area which is peculiarly vulnerable if that is the public perception, and I would agree with what has been said about it.

Do you foresee, as I do, an increase in this type of computerized crime in the future? It seems to me that now the computer is established in our society, there are those who for whatever reason are going to try and use it for other purposes.

What training is there? What do the police have in the way of training to combat this kind of crime? I want to know.

Hon. Mr. McMurtry: You are specifically talking about computer crime now?

Mrs. Campbell: I am using that as a sort of ultimate kind of example but it is a part of the whole white-collar situation. Are you saying that the special services branch—what is the SIS for?

Mr. Graham: Special investigations branch is in the special services division.

Mrs. Campbell: Security?

Mr. Graham: Security guard agency, it is a private firm. It has nothing to do with that.

Hon. Mr. McMurtry: It has nothing to do with that.

Mrs. Campbell: No. But I thought the whole things was part of a provincial—

Mr. Graham: CIB?

Mrs. Campbell: No. I do want to know what you have to combat this—if you have any developments in expertise—

Hon. Mr. McMurtry: Yes.

Mrs. Campbell: —what they are; where we stand at this time.

Mr. Hilton: There are 40 people in the anti-rackets branch. I don't take away from anything the minister has said—that is, that we need more and we need bigger—but it is not ignored by any stretch of the imagination.

Mrs. Campbell: I am not suggesting it was ignored.

Mr. Hilton: No, I know you are not. We have two computer experts who are university-trained in the computer field and are working on computer crime. There have been 133 lectures delivered to the members of our force on the subject of white-collar crime, including computer crime. Also 22 courses have been taken, and people have been sent away to cover the concerns you have and that we have as well. We are seeking within the very best of our resources to cover that which we appreciate is a growing element of crime and it is a growing concern with us and with many other people too.

Mr. Acting Chairman: Mrs. Campbell, we must take a vote now.

Mrs. Campbell: I'm sorry.

Vote 1704 agreed to.

Vote 1705 agreed to.

Mr. Acting Chairman: Shall the chairman report the 1979-80 estimates of the Ministry of the Solicitor General?

Mrs. Campbell: Mr. Chairman, before you carry it, I must issue the same caveat I have issued in the past. That is, while I cannot stop these estimates being reported in the House, I still am very firmly convinced that all that has happened in the Attorney General's estimates, all that has happened in the Solicitor General's estimates, indicates very firmly to me that we must once more record for the attention of the Premier (Mr. Davis) the necessity to divide and separate these two ministries. I cannot let the estimates go without that caveat. I don't know whether anyone else agrees with me in this committee but I think it has to be said.

Mr. Renwick: You will have an opportunity to comment on the concurrence vote.

Mrs. Campbell: I know, but I don't want to go to the concurrence vote without having at least recorded my concern in these estimates.

Mr. Acting Chairman: One last point, the letter that was discussed earlier that will be edited, I wonder if the minister could leave that with the clerk of this committee as well as questions that were asked by Mr. Foulds. You were going to pass on information to Mr. Foulds. I wonder if you could pass it on to the clerk of the committee because other members will be interested in those answers as well.

Hon. Mr. McMurtry: Yes, I will.

Mr. Acting Chairman: Thank you very much, Mr. Minister and staff, for being so co-operative and helpful in these estimates.

The committee recessed at 12:14 p.m.

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No. J-31

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Provincial Secretariat for Justice

Third Session, 31st Parliament
Wednesday, December 12, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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Editor of Debates: Peter Brannan.
Published by the Legislature of the Province of Ontario.

LEGISLATURE OF ONTARIO

The committee met at 2:06 p.m. in room 151.

ESTIMATES, PROVINCIAL SECRETARIAT FOR JUSTICE

Mr. Chairman: I recognize a quorum. We are on the estimates of justice policy. There are six hours in these estimates, Mr. Minister, if you have some opening statements we would appreciate them.

Mrs. Campbell: Was there a briefing document for this? I haven't had it but I shouldn't complain; it was given to me by Alf Stong.

Hon. Mr. Walker: Mr. Chairman, I appreciate being here today. I have with me a number of people from the secretariat staff.

Mr. Don Sinclair is the Deputy Provincial Secretary, and behind me is the former Deputy Minister of Correctional Services. We have three policy development officers with us: Mr. Douglas McConney, who is the senior policy analyst; Mr. Leonard Crispino, who is a policy development officer; and Mrs. Ruth Pitman, a policy development officer who has been seconded from the Ministry of Correctional Services.

Mr. Chairman: With your permission, Mr. Minister, since it will make questioning an awful lot easier, would they join you along the table here? They would be more than welcome.

Hon. Mr. Walker: Mr. Chairman, briefing information covering highlights of the past year, as well as current and projected activities, has been distributed. I would like to make a short opening statement by way of introduction to these estimates.

I am pleased to be here again, this time as Provincial Secretary for Justice. I say this because I believe the justice field to be a critical and challenging one for a government.

The various parts of the justice system, the various officials who exercise authority touch the lives of everyone in Ontario, in one way or another. All of us at some time look for protection, or assistance, or fair treatment, or expect that interference in our lives, when necessary, will be carried out with restraint and reasonableness.

In other words, we expect to receive justice from the system and as provincial secretary I am acutely aware how difficult it is to achieve this objective, but also how necessary it is.

Former Chief Justice McRuer considered justice to be beyond definition. I am not going to take the time of this committee to recite definitions, either of others, or my own. But I agree with him that the humblest citizen has a fairly clear idea of what an injustice is, in any particular circumstance, and that the citizen looks to the justice system to protect him from injustice.

Mr. McRuer has also said there are concerns that the processes for preventing injustice may prove to be too slow, too inefficient and too expensive to meet the future requirements for the task.

One of the ways to prevent that from happening, however, is to be sure that the justice system is recognized as a system of inter-related parts, even though, by their nature, they must remain apart, and that there is appropriate and adequate co-ordination and planning among the parts. To this end, I have no doubt at all about the importance of the policy field concept of this government and the necessity for the cabinet committee on justice, and for the secretariat.

The opportunity for ministers to meet around the table on a regular and formal basis is most helpful in examining policy proposals—

Mr. Renwick: Did you say, "on a regular and formal" basis?

Hon. Mr. Walker: Yes.

Mr. Renwick: That's what I was hoping.

Hon. Mr. Walker: —is most helpful in examining policy proposals, legislation and issues affecting the field.

The Provincial Offences Act, and the family law and children's law reforms, are examples where in-depth discussion, from various points of view, proves to be particularly worthwhile. This would just not have happened otherwise.

As provincial secretary, and chairman of that committee, I look to my deputy and the staff of the secretariat to provide that invaluable, independent, second look. Co-ordinator, analyst, monitor, adviser, all of these secretariat roles are important ones to the overall functioning of the policy field. As needs, issues and proposals for change emerge they require assessment from the perspective of the total field in addition to the needs and interests of any one part of it.

I would like to refer briefly to some examples in the policy field which have developed from the work of the cabinet committee and the secretariat.

There is a great need for readily available and reliable information, for a variety of data about the justice system of Ontario, and which is assembled from the perspective of the total field.

In 1977, the secretariat produced for the first time a publication of justice statistics in Ontario. This first edition was then revised, brought up to date and expanded in a second edition published late in 1978. It is anticipated that future revisions might most usefully be done every two years.

Problems in providing reliable and useful data in our field are discussed in this source book and co-operative efforts continue towards solutions, not only between ministries in Ontario but between provinces, federal departments, and Statistics Canada.

We all know how difficult it is to interpret the numbers—the offences rate being a vivid example. Does an increase in the statistics mean an increase in the amount of crime, or are the police and other community services handling incidents differently? One way to avoid endless debate and instead keep the focus on the real issues which affect the individuals and the communities concerned is to improve communications procedures and information for everyone concerned.

I believe the work that was done through the rape consultation, convened by the secretariat, has done just that, and will prove to be very effective. A major step was achieved when we published Guidelines for Helping Victims of Sexual Assaults, copies of which were circulated at that time. I am pleased that we are now proceeding with the production of standard kits for gathering evidence about rape. These will be distributed throughout the province.

Mrs. Campbell: Who prepared the standard kit?

Hon. Mr. Walker: It has been prepared in consultation with the Ministry of Health and with the Attorney General.

Mr. Sinclair: And with the medical association.

Hon. Mr. Walker: We realize of course, that funding rape crisis centres remains a puzzle, and I have promised their representatives to give them an answer in January. I hope members here will give me the benefit of their views and advice since it might help us to form our conclusions. I remain, at the moment, with an open mind on the entire matter.

Each part of the system—the police forces, the courts, and correctional services—knows its own information needs and makes decisions about the kind of information system that will best serve its purpose. It is necessary however, that some of the information be available to others.

The police have details about an accused that is required by the courts, and correctional services institutions, and community programs require certain information about the individual who was convicted and placed in their charge.

If the right information is not immediately available, when needed, the ability of officials in each part of the system, to carry out their responsibilities, for individuals in their care, can be seriously impaired.

Similarly, if timely and compatible information from various parts of the system is not available for planning purposes, it is much more difficult to analyse trends, anticipate demands, and plan modifications in the way in which our system operates.

[2:15]

There are some difficulties at present, and this matter is being given particular attention. We are confident that as procedures and systems are modified and improved the result will be a justice system that is more efficient and more effective overall, and one that is even more humane in the way in which it deals with the individual.

There is a great need for the justice system to be fair, and for it not to be biased in its operation against any particular group of people.

I know members of this committee are as concerned as I am about the needs of native people. I'm therefore pleased that the native council on justice not only continues to function but that it has been considerably strengthened as a result of the energetic participation in the council of its members, and the enthusiastic support by each of the ministries. You will find considerable information about the council's activities in the briefing material.

I believe one of the major concerns for the attention of our policy field, because I

believe it can be very usefully approached at the policy field level, should be prevention and the promotion of community understanding and community involvement. The trial use of the booklet Growth of the Laws We Live By was previously reported to this committee and it has now been made available to police forces and schools throughout the province. A seminar of police community relations officers in the province expressed great interest in this publication. Also a series of booklets for teachers and other adults working with young people continues to be popular. A new publication on responsibilities will be available shortly.

Prevention, of course, is a many faceted concept. We must understand more about the nature of crime and about those who commit it, if we are to attempt to prevent crime, and criminal activity. At each step in the process, action should be taken in order to make it less likely that repetition of criminal behaviour will occur.

Not unrelated to these objectives is that of ensuring the response of our system is appropriate. There has been, therefore, in the development of new ways to handle less serious offences, such as in the new Provincial Offences Act, a greater range of dispositions available to judges—such as restitution and community service. And correctional service is becoming increasingly community oriented, minimizing the inappropriate use of incarceration. Evidence of such developments is seen throughout the system in Ontario, and the secretariat has an active role in coordinating and assessing the implications.

I am also concerned that the system is fair to the victim, who is too frequently forgotten by the criminal justice system. I am pleased that some steps are beginning to be made in addition to the Criminal Injuries Compensation Board. These include the use of restitution in sentencing and correctional services new programs.

The justice system is, of course, more than criminal law and criminal process. There have been recent major developments affecting families and children, for example. The field also includes major responsibilities for regulating many areas which include consumers' interests, business practices, consumption of alcoholic beverages and the coroner's and fire marshal's offices. In common with all ministries, our field is engaged in the review of regulatory activity and we are convinced that government programs, protection and interference in people's lives and activities, can be both simplified and reduced.

Mr. Chairman, all of us know that there are no simple answers to the issues that face us. There is need to simplify the system and remove backlogs of cases while living within financial constraints and protecting long established principles of due process, and protection under law.

The public has a perception of increased crime and a feeling that the system is too soft on criminals. On the other hand it is important to tailor the system's response to the assessed needs of the individual and his circumstances, as well as to those of the victim.

We are anxious to avoid any over-reaction by government and by authority, which can result in unnecessary, and inappropriate interference in people's lives, while still responding appropriately to the need for protection on the part of the individual and the community.

These last remarks are given more emphasis as we look not to the moment but to the years ahead. As you are aware, there has been of late a great deal of speculation about the effects upon society of an ageing population, and within the secretariat we have attempted to assess the impact of this phenomenon upon the justice field. In addition, we have attempted to assess the impact which such factors as future economic conditions, levels of education, public attitudes and new technology may have upon our system of justice in Ontario.

The staff of the secretariat have a not-too-lengthy slide presentation available, and I hope the committee will assent to this being shown following the opening statements, or whenever the committee might consider it appropriate. They draw our attention to such important factors as the details of increased police costs, a comparison of police, court and prison costs, the reasons our jails are over-crowded, the extent and the dangers of computer fraud, the significance of the 16-29 age group in criminal offences and the possible impact of increased energy costs.

I think you will find these facts and figures to be of absorbing interest, as I have. Certainly they illustrate the fact that careful and thoughtful planning will be essential if we are not to be overwhelmed by future events. They provide no simple answers because, of course, there are none. However, I believe, they ask the right questions.

In all sincerity, I seek any input which any member of the committee may provide because the indications are that the future problems we face will be much more complex than even those before us today.

As I indicated earlier, Mr. Sinclair is here with me as Deputy Provincial Secretary, along with staff members. That's the extent of our opening comments and we'll be glad

to share with you any answers you may suggest.

Mrs. Campbell: I very much appreciate some of the remarks of the minister, particularly those regarding his concern over computer fraud. I addressed myself to that situation with the Solicitor General, in the training of police and their expertise in dealing with this highly sophisticated crime.

Unprepared as I really am—since my critic is laid low today with an ear infection and I wasn't aware of it until just shortly before noon—I would like, first of all, to have some discussion with the policy secretary in justice in an overriding fashion, on what, I think, has become very clear to members of this committee—or to some members of this committee, to be accurate. I refer to the present conflict in the roles of the Attorney General and the Solicitor General. To what extent has this been discussed in his cabinet committee, if he is able to state that?

What is the role of the Attorney General as an objective crown law officer—the chief crown law officer of the province—in these discussions in cabinet committee? I think it is becoming increasingly apparent that, whereas some years ago there was not that kind of apparent discord between the two ministries, circumstances have changed and those who may have very appropriately argued in favour of a single ministry have now become convinced that is no longer appropriate in our time. That, it would seem to me, requires some overview by someone other than the minister engaged in the two offices. I am particularly anxious to hear from the policy minister in this area.

Second, the law reform commission has undertaken a study of the law of standing. As a justice matter, and with the increasing problems of environmental law and the ability of persons to pursue rights before the court, it seems to me the policy secretary must surely have some words of wisdom on what he sees as the appropriate steps to be taken in dealing with this matter.

We are very much aware that there are those who wish to expand the law of standing and there are those who do not wish to expand it. But it's interesting that those—for the most part, any that I've read—who are opposed to the extension of the law of standing, feel that the Attorney General should appropriately be the watchdog for the rights of all the people of the province, and that any process should be initiated by him.

I have examined the record as best I can but I am certainly open to correction. I have seen no case where the Attorney General has initiated any action when the environment has been under attack by various polluters. This means that if we don't have a watchdog in the Attorney General, I would assume we must fall back on an extension of the law of standing itself, particularly in this field. I'm rather saddened that some comments which have come forward recently do not seem to be based at all on understanding of the principle of standing in the law of the province.

I would also like to draw to your attention —on this I really have not had a chance to read the entire piece—to an article entitled, "Controlling Police Conduct, Alternatives to the Exclusionary Rule." The authors appear to be Jerry B. Wilson and Geoffrey M. Alprin.

In this article they make some very real and important points, it seems to me. They discuss procedural rule-making by police departments themselves, which they say provides a solution which is both comprehensible to the policeman on the street and sufficient to satisfy the citizen's constitutional guarantees. Then they go on to test against that particular statement.,

On page 490 this statement occurs, the article having discussed Mallory and other such decisions: "The foregoing is meant to illustrate the convenient ambivalence with which the bench and bar apply the exclusionary rule. In practice, the rule is applied so as not to seriously disrupt the system's tendency towards mass-produced justice in unimportant cases involving poor people."

I think that statement is a strong statement and I draw it to your attention, particularly in the light of your opening remarks. I think the implications are far-reaching.

I'm not going to read all the rest of this into the record but in the light of some recent developments, I have a rather major concern in this field since it is far-reaching in its applications to individuals before the courts.

[2:30]

I don't know whether this minister has shared the knowledge of the Attorney General and the Solicitor General in the transcript of the recent Barrie trial. I think once again—and subject to what the transcript may show—there is certainly a good deal of lack of understanding. I say that advisedly because I take all of my information at this point from what the media has reported, not from the transcript, which I have not yet seen. When a crown states—if he did state—that he was unaware the

production of this alleged evidence was not lawful, one then looks at the whole system of justice: where we're going, and what kind of information is given to both police and crown law officers.

I would think that for you this must be an overriding overview of a situation which is causing great concern to me. I may be alone in this but certainly it bothers me no end that anyone could be that confused in either counselling or acceding to some such criminal activity. It has now been found to be criminal in its nature. I would again think that you, as the justice secretary, would wish to examine this.

I would like to refer you, if you haven't seen it, to the editorial appearing in the Globe and Mail December 10, which seeks to analyse some of the problems. I would refer you also to the article in the Toronto Star of December 9 headed "Dirty Tricks."

Quite apart from the very apparent concerns we have, I have a special concern that we seem to be arriving at a state in the justice system where we have judges all along the line—when the police themselves to some degree are becoming judges of human behaviour. They come to a conclusion that someone is guilty and then they seem to feel that almost anything they do to ensure that person is found guilty is within the law and is accepted police activity.

I don't think, with the greatest respect, that the police initiate that attitude. I think there must be something in the system which is encouraging that attitude. I'd like to make it perfectly clear in my remarks that I have nothing but the highest respect for our police in this province. Certainly I've had far more occasion to know the Metro police than the Ontario Provincial Police, who seldom come within my ken in my normal day. I do think there is now some kind of—perhaps it's a matter of legal morality, if you like—coming forward, which I for one am very worried to see.

I trust the justice secretary will be able to address himself to that area of the justice system. We've discussed the role of the crown as well. We've discussed that with the Attorney General but, again, an overview is necessary as long as these two ministries are consolidated under one minister.

Remarks have been made about the rape crisis centres. If you'll forgive me, I'd like to give you a little illustration of what I'm trying to get at. I had a very dear friend who had many vicissitudes over a short space of time. They were incredible and people kept giving her the usual phrases—"The back is made for the burden," and "The good Lord never imposes a burden which you cannot withstand." Her answer was, "I've heard that so often. I am deeply sorry that the good Lord has so much confidence in me."

The rape crisis centre people have very much the same cry, I think. You put so much confidence in them perhaps they feel they can no longer carry that great burden. We are concerned about the victims of crime but we have never really been concerned, and you cannot prove to me you have been, with females who have been the victims of sexual assault. Almost anything done either in the law or in provision of services is a weakening of their positions. I point out to you again, as I've done ad nauseam, when I first entered the practice of law as a student, rape was a capital offence. The penalty was reduced and the excuse was you could not find an all-male jury who would make a finding knowing that to be the ultimate result. No one looked at changing the jury system. That was just the excuse. So it then became something other than a capital offence.

The status of the law is almost constituting a licence to hunt. I am certainly less than satisfied with the legal argument that by reducing this matter to an assault, one has overcome some of the real problems in evidence in these cases. I may say I believe the crown in Toronto specially assigned to this type of case agrees with me that probably as an assault we're back to the old types of evidence without the protections we sought.

To me, it is time this government and the federal government as well, indicate a very real concern for the victim in these cases. It is appalling the rape crisis centres, one of which has had to close because of lack of financial assistance or commitment, should be in the position of having to wait even until January when they are now faltering financially in many areas of this province. I don't think we have to prove the need for these centres. Surely not.

As I understand it—and the reason I question the kit—the rape crisis centre people who came to our caucus advised us they prepared a kit and that kit was the one being used by the ministry. I would like to know why, in outlining those who were assisting with the kits, no mention was made of their contributions to it. However, we have asked the question.

It seems to me it's a Justice question as well as a Health question. What is the use

of kits? What is the use of information? What is the use of anything, if you have hospitals that do not choose to perform the necessary investigative procedures? In one case, a rather young girl waited eight hours for an examination in this area. Just who are we kidding in our concerns that these cases should have the necessary evidence, the co-operation of all those who have to be involved in the system? What does the medical profession say when some of the reasons given to me privately have been that doctors do not wish to spend their time in the courts?

I would like to know whether that kind of an overview is part of what we shall see in the work of the policy secretariat. I would not like to see the slides until some of these questions have been answered. I don't want to preclude any information being given, but some of the things I've discussed are too pressing to be pushed aside for anything else. I will conclude here.

Mr. Chairman: Thank you, Mrs. Campbell. I'm sure the minister will want to respond to you, but before that I'll hear from the NDP. Mr. Renwick.

Mr. Renwick: I would like to come back to the question of the funding for the rape crisis centres a little later in my comments, because the Provincial Secretary for Justice has provided an opportunity for us to express our views to assist in his conclusion. I want to participate in that and accept that invitation.

Within my remarks you'll notice there are questions involved, but I'm not sufficiently organized that I have ever a written presentation on any of the full matters. But perhaps your advisers could make a note of what they discern to be questions I have, in hope they can be answered.

Let me say at the outset that having come with a degree of scepticism about the creation of the secretariats at the time of the government reorganization and having been ambivalent about them, on balance I am in favour of the role of the secretariat and particularly of the Provincial Secretariat for Justice. Therefore any comments I make are with respect to maintaining and assisting in the development of its role in the formation of policy and the process of implementation of policy, resulting finally, in our case and in most instances, in legislation.

Having said that, within that very positive framework, I have some real concerns about the process. Instead of, as I had envisaged the matter, the cabinet committee being with five ministers, we are now at the point where there are three ministers involved: yourself, in your capacity as Provincial Secretary for Justice, the Honourable Roy McMurtry in his dual capacity as Solicitor General and Attorney General, and the Honourable Frank Drea in his capacity as Minister of Consumer and Commercial Relations.

[2:45]

Hon. Mr. Walker: Mr. Pope is the Minister without Portfolio and he serves in this field. I mention his importance not only because he contributes to the discussions but also because he has responsibility for regulatory reform, which is a fairly heavy area within our own domain at the moment.

Mr. Renwick: That is one of his specific assignments?

Hon. Mr. Walker: Yes.

Mr. Renwick: Is that his sole assignment?

Hon. Mr. Walker: Regulatory reform—

Mr. Renwick: No, not regulatory reform—as a member of this committee.

Hon. Mr. Walker: Yes, he is a permanent member of the committee, and regulatory reform is part of that.

Mr. Renwick: With other responsibilities. I was not aware of that and that is of some assistance. I don't want to pursue the regulatory problem, nor do I want to be partisan about it. Proliferation of regulations is a matter of concern to me but it's not a major concern within the time available to us.

Hon. Mr. Walker: Mr. Pope has also taken on the area of native involvement. To the extent that justice has been involved with native matters he has tended to absorb more and more of that responsibility.

Mr. Renwick: That's the first I knew of that. I can come back to it because it fits in with another comment I want to make. I'm concerned about that. I'm concerned about the dual roles played, even though a Minister without Portfolio for certain specific designated purposes, which I consider an adjunct, has been added. I don't have any value judgement either for or against. It may very well make sense. I am concerned about the reorganization of government which certainly indicated there would be such a cabinet committee—five ministers, four operating ministries and one Provincial Secretariat for Justice. I think that must pose very real problems.

Perhaps at some point you might indicate how often that cabinet committee has met in the time you've held the secretariat—for how long and how the cabinet committee functions. I'm not interested so much in how it deals with what's in front of it, but what

the process is by which the agenda is prepared for the meetings of the cabinet committee. What gets on the agenda and what doesn't get on the agenda?

The second concern, I have, and it's a major concern, is that it's an extremely lengthy process from the time a matter appears on the horizon as requiring study to the time when legislation eventuates in the assembly. Not an important matter, but simply illustrative of the kind of problem I'm talking about is that it took seven or eight years from the time the question of the Powers of Attorney Act was referred to the law reform commission, which I think was in 1970 or 1971, until the time we passed the act the other day. Even when I was attending law school, it was pointed out as an anomaly and a problem in the law of the powers of attorney.

I don't understand why that process should take so long, not only about matters of as great a consequence as that particular illustration, but also many of lesser consequence. The germination of policy has become a very lengthy process. Whether the origin of it is within, say, the Centre of Criminology at the university or through some other body of one kind or another, it would seem to me that we must look at that process.

I would make a specific request that you at least consider, within the cabinet committee, the transference of responsibility from the estimates point of view of the law reform commission to the provincial justice secretariat and away from and out of the Ministry of the Attorney General. It seems to make sense to me if the law reform commission and the topics assigned for its study and the process by which those reports are brought forward to be dealt with were forwarded to the Provincial Secretariat for Justice. In my judgement that makes a reasonable amount of sense. That secretariat, through the cabinet committee, could work on the process by which the reports were received, and then fan out for implementation and study to the appropriate ministries.

Another example from one of the justice policy fields, and one of the major areas I can't understand, is the delay in the whole field of consumer warranties. The heyday of the fashion of vocal consumer protection seems to me to have surged and appears to have gone into eclipse somewhat in the sense of automobile safety, shoddy goods, shoddy products and all the rest of it. The fundamentals of the system which created those problems still await to be put in place. It would appear to be a major concern, now that all the studies have been done, that a bill should be put before the assembly—even if it were for exposure purposes as a first draft to be circulated. But it should have a clear indication that it was the government's firm intention to get a statute on the books of this province dealing with consumer warranties.

It's the length of that process which I would seriously recommend to the secretary. It should be looked at, and the specific suggestion with respect to the law reform commission using those couple of examples I mentioned. There are any number of others that would come to the mind of anyone who had watched this germination process finally develop into law.

Let me say before I leave the secretariat generally that part of the reason I've come around to it in our slow way is that in our own caucus we have, in reflecting the critics' roles as opposed to the government's roles, a justice policy group which meets regularly. It deals with matters in the justice policy field and makes the recommendations to our caucus with respect to legislation and other matters.

For example, the justice policy group deliberated in depth and for a considerable number of hours the proposal which finally came onto the order paper in the name of my colleague David Warner. This concerned our version of the principles to be incorporated in a police complaints procedure. We have used it.

I chair the group because I'm the critic for the secretariat. My colleague David Warner is the critic for the Attorney General's estimates, my colleague Ed Ziemba for the Ministry of Correctional Services, my colleague Michael Davison from Hamilton for the Ministry of Consumer and Commercial Relations and my colleague Tony Lupusella for the Ministry of the Solicitor General. In addition, because my colleague Patrick Lawlor has responsibility for the whole of the legislation processing through our caucus, he sits on that committee as well because of his background and experience in this area. They include him when time permits and he is able to do so because the chairman of this committee falls to the New Democratic Party caucus at this time. I did want you to know that we've got sort of a companion group that tries very much to deal with these problems.

The next matter I would like to raise, is that I assume, but I would like confirmation of it, that the staff of the secretariat goes through—dreary as it may be—the hearings of this committee dealing with all the minis-

tries to glean whatever suggestions or comments have been made to get some sense of what we in the Legislature are saying about the areas which are involved in your secretariat. I would hope that would mean reading the estimates proceedings of this committee for the Attorney General, Solicitor General, Consumer and Commercial Relations and Corrections.

I made use of the legislative library to get a printout of your comments as provincial secretary as reported in the press over a considerably long period of time. Of course, you've only been in the secretariat for a short time. In the printout which I got of the Globe and Mail and the related Metropolitan Toronto papers—and I think the odd one from the London Free Press—I could find no statement you have made about matters related to justice policy as such. There were a considerable number of remarks, of course, in your role in your operating ministry.

I don't have any value judgement on that, but I would think that from time to time you as secretary should be seen to be making some statements about some topics which are under consideration. At the same time I commend you and your predecessors in that the secretariat has been kept small. I think the role to be performed can best be performed by a small group working consistently and closely together. I have a little bit of concern when I see that while there always must be necessary changes within the staff that a number of your staff are relatively new in the field. That has positive as well as adverse aspects.

I have two or three specific matters that I would like to throw into your hopper for consideration. There's no question about the legislative jurisdiction of the Parliament of Canada to deal with young offenders as a matter of constitutional division of power; but we do have, as a counterpart to that, the significant revisions with respect to child welfare in the province, which have now gone through. Apparently it's not too far distant that the Young Offenders Act may surface as an actual bill to be looked at. I'm not asking that we wait until that happens.

[3:00]

I haven't raised it with my colleagues, but if there was any indication from you that perhaps it could be arranged, I would like to initiate it. I think if not all of my colleagues on our justice policy group would, certainly some of them would approve. I'm quite certain some members of the Liberal caucus would, if you would set aside a day to go through the Young Offenders Act with us in whatever form proposals come forward that are of specific concern to you with respect to how it is evolving and the problems in it. It did seem to me that in the short time available in these estimates that big field would take up a tremendous amount of time if we started to discuss it here in the six hours.

I'm certain my colleague, Mr. Ziemba, and others in the NDP group would be more than willing to have a day with our colleagues in the Liberal caucus and perhaps some of your colleagues from the Conservative caucus who are not in the cabinet to go over that whole process. It must be coming somewhere towards a conclusion. Other members of our caucus in the social development field, such as my colleague Mr. McClellan who has been very much involved with the Ministry of Community and Social Services in the children's field, would also like to sit in. I would make that proposal that you do set aside a day for us in January or in February.

I don't want anybody else invited. I'm not asking that you hold some public forum, merely to provide an opportunity for us to have the benefit of all the problems that you've seen and your sense of it and where it's going and what the interface is with the provincial act. This whole question of young people and their relationship with the law in the breaches of social custom is of immense importance. I think we would welcome any indication from you that a suggestion such as that might be worth having.

An area which hardly falls into the same field as the de Grassi GO station, but which I'm very much concerned about is the revenue part of the justice system. I would guess that the provincial court judges collect a significant amount of money for the government, and I suggest a significant part of all of these penalties that are imposed are never collected. I don't think the administration of justice system should be a collection agency. I have proposed on a number of occasions that there should be some method by which, when a fine is levied and is outstanding after a certain period of time—30 days or 60 days—that all of those accounts be transferred to the Ministry of Revenue. With modern equipment it could be done very easily. They should be made responsible for the collection of that money because one of the major problems is the lack of funds for the administration of justice in its broad sense—in the sense that you, as provincial secretary, are involved in. I find it difficult to think that money is so hard to get when there is that amount coming in. Even if a portion of it were collected it would provide significant funds.

I just don't think any of the ministries within the secretariat are geared towards that kind of work. Nobody has paid any real attention to the collection of those amounts that are owing except intermittently, when somebody happens to stumble across it or they clap somebody in jail because he hasn't paid his fine or some such matter. I would seriously ask that you consider making a recommendation to transfer the revenue-collecting part to the Ministry of Revenue; make them the collection agency. If at some point it has to come back to one of the ministries for collection in some way, all right. But surely the Ministry of Revenue itself has the expertise and the skills or could develop them to collect a significant part of the moneys which are outstanding. It could be well used in the areas of these ministries which are often very skimped for funds.

The other area we've all had on our minds for several months now—a long period of time for some of us—is the police question. I'm not asking that the secretariat take on some magnum opus about police. However I have a specific concern that a goodly part of our problems have arisen from the inability to restate the role of the police officer in the kind of simplistic but modern sense as was originally stated years ago when the London police force was first instituted by Sir Robert Peel.

My colleague, Mr. Lawlor, and myself and I believe with the support of Mrs. Campbell and others, have been very upset by—and I use it both advisedly and with care—the Americanization of the police force; the paramilitary tendency of the police force; the problems which have developed. I recognize we're in North American and we're not in the United Kingdom. I recognize a certain international problem that doesn't make the United Kingdom quite as different from North America as we may think in our more nostalgic moments.

I believe there has been a departure from the original conception of the police officer in our society which has not proven to be valuable. It's mirrored in the dropping of ancient terms such as constable, and the substituting from chief constable to chief of police, and from constable to police officer and so on. That's a direct Americanization of the force. The hierarchical structure of the force has tended to be corporatized and there have been a number of problems that have flown from that conception.

Perhaps at the risk of repetition, my colleague and I a number of times and others have expressed concern about it. I think now is the time to call a halt and restate it. Mr. Linden, the adviser to the Attorney General on special assignment with respect to the police complaints bill, kindly reviewed with us on Monday night the proposed legislation that was introduced on Tuesday. He had with him a document headed Rights of Police Officers. It was an attempt to put down on two or three or four pages an itemized list of the rights of police officers.

It seemed to me that indicates very clearly what I am saying. If you have to itemize the rights of police officers, we're a hell of a long way from saying that the police officer is a citizen to whom the other citizens have delegated the enforcement of the law, and that he only exercises in a very special sense functions which I, as a citizen, could exercise as well.

I'm not so naive to think that's all it is in this modern age. But we have gotten away from that concept. We have remnants of it. A police officer cannot plead superior orders as an excuse, quite distinguished from the military operation. He has no excuse; no way in which he can say, "The chief of police ordered me to do this," or "The chief of detectives ordered me to do this," or "My staff sergeant ordered me to do it," or the superintendent. He doesn't have that luxury; when he's charged, he's charged, and he stands on his own the way you and I do.

I don't pretend to know all the ins and outs of the concept of the police in the better jurisdictions in the United States, but I do think that adapting our police force to the American model and away from the British model has turned out to be a serious mistake. I think the sooner we reverse it the better. I would certainly ask that an attempt be made at this time to restate, in historical terms but in modern conditions, whether or not my sense is correct, what we have lost in terms of all the elements that go toward a proper functioning of the police force in our kind of society.

It's a kind of inverting the problem to say it only happens in Metropolitan Toronto, when everybody knows that what is taking place is the urbanization of society. If it is not happening elsewhere, it's not going to be very damn long before it does happen elsewhere. The same problems are there. The reverse is that, because it's Metropolitan Toronto, problems come to the surface which don't come to the surface in other communities. There is something fundamentally wrong when a society such as ours begins to let the people to whom we have delegated our security, and the protection of our security within the law and under the law

and within our tradition of respect for individual liberties and individual rights, to come to such a state of tension with the community in which they serve. I'm not talking about a fringe organization which may be opposed to the law or opposed to the security of society or dedicated to the overthrow of society. I'm not talking about that. I'm talking about the kind of concern which is expressed from time to time in a riding such as I represent, or a riding such as I'm sure the provincial secretary himself represents in London, or which a number of our members represent.

It may simply be that, because the seats which the New Democratic Party holds, and which my colleague the member for St. George holds, are across the bottom of the Metropolitan Toronto area, these matters are in our minds much more than they may be in the minds of members of the government party in Metropolitan Toronto who hold seats in the second or more northerly tier.

Mr. Chairman: They are also across the top of the metropolitan area.

Mr. Renwick: I understand. In any event, I feel strongly about that but I have the satisfaction of believing it's based on some kind of reality which expresses itself, I think, rationally. That's an area I would like to see because a goodly part of the intractable nature and the complexity of our problems is because their fundamentals have not been clearly seen and clearly understood. Therefore, you get an immense number of refinements simply because everything everybody thinks about is thrown into the pot; but there's no fundamental basis from which one starts or within which one is grounded, or a point of reference to which one can return.

I did mention the consumer warranty matters. I would hope an explanatory document will be put out very soon on this new pricing system that's coming into the supermarkets.

Mr. Sinclair: Computer codification?

[3:15]

Mr. Renwick: That's right. I think very few people understand it, and I think the ministry should put out a simple explanation of how the system works. Maybe it's just me. Maybe because I don't understand it I'm projecting that nobody else understands it; but I have a funny feeling that very few people do understand it. We see these lines on the cans and the packages, but nobody has taken the trouble to explain to us how the system operates or what it means. I think that would be an important item.

As you know, my colleague the member for Welland-Thorold has a special role in our caucus dealing with this whole pricing question. A good part of our problem is that we don't understand it. I notice Mr. Kerrio shaking his head to say he doesn't understand it either.

Mr. Kerrio: Exactly.

Mrs. Campbell: I think the only one in our caucus who does understand it thoroughly is the member for Windsor-Walkerville. He's made a study of it and he advises us from time to time.

Mr. Renwick: There is another area which has bothered me a great deal. I'm not going to repeat the points I made, but I would appreciate it if you or your deputy or members of your staff would read my comments on the second reading of the last amendment to the Securities Act. I'm very much concerned about the developing incapacity of this Legislature to deal with that kind of legislation.

The proof of the pudding was that we had a complete revision of the Securities Act which went through at least three or four drafts over a period of several years. The bill as finally passed contained one amendment proposed by me which corrected a typographical error. That was the sole and only contribution we as members were able to make to that legislation. We proposed other amendments, but they were not passed. It illustrates very clearly that if you put together half a dozen people whose sole purpose in life is to study the Securities Act and its regulations, it's extremely difficult for anyone else to compete with them. They get a sense of elitism and feel that, because they understand that world, somehow or other everybody else is kind of a dummy and must rely on them to do that.

Mrs. Campbell: Like the oil companies.

Mr. Renwick: Yes. In any event, that kind of legislation is a disservice to this assembly. What it means is that the ministry deals with the industry—they refine it and refine it and refine it—and the role of the assembly might just as well be to say: "This is RS Bill 1"; that is, Rubber Stamp Bill 1. You introduce it one day; you move it through second reading the second day; you pass it for third reading the third day. You pass it on and it's called a rubber stamp bill. It's seen that we're performing a purely formal function.

I think that question is one which affects not only the government, but the assembly as well. It's not just the assembly's problem. I think it's a problem which the Provincial Secretariat for Justice could look at. There are not many fields, but there are some, where the law is so specialized and so par-

ticularized that it's extremely difficult for the assembly to be other than a rubber stamp.

I want to come back to this because I feel it's extremely important, and then my remarks will be completed. No, I did want to touch on one other item. I'm rather glad now that the time ran out in the other estimates and that I didn't have a chance to raise it there because I think this is a more appropriate place. I don't understand and I have not seen a written statement of the role of the Royal Canadian Mounted Police in Ontario.

From time to time, my colleague the member for Lakeshore and I have tried to ask, if the RCMP is here by virtue of—we know they're not here by virtue of contract the way they are in some other provinces. We know that. But are they here by virtue of some memorandum of agreement or memorandum of understanding? What functions do they perform here and why do they perform them? What is the agreement? What is the interface, to use the colloquial jargon, between them and the RCMP and the Metropolitan Toronto Police, the Ontario Provincial Police and so on? What is the definition of "function"?

Each time we've been met with the comment, "That's work done by co-operation," and so on. I'm sufficiently disturbed by what I have heard about the Royal Canadian Mounted Police. The Attorney General seems to be extremely concerned because he can't get the kind of information he has been asking for. I think it's time, whatever the document is called, for some statement about the role of the RCMP in so far as it exercises its jurisdiction within the province in the area of criminal law enforcement, including drug addiction and the other statutes that fall under it—customs and excise, revenue matters and so on. There should also be a statement about the whole of that vexed field of intelligence and counter-intelligence. In my judgement there's no jurisdiction for this set out in the constitution of Canada, although the RCMP apparently exercises some control.

I want to come back to the funding of the rape crisis centres, so my next to last question deals with a problem which has been in and out of the press forever in the last few years. We have no clear statement, and I think it's a matter that requires more than a trite statement; it requires a definite policy statement by government. I'm referring to the relationship of the police to the law in the performance of their duties. I'm sure there are many quotations. The two I am going to read happened to appear recently on the same day. I don't have the date, but it was quite recently. I realize the case may well be under appeal, so I'm not discussing the merits or the facts of the case.

"Sometimes in an investigation it may be necessary for police to break the law, a deputy chief of the Metropolitan Toronto Police testified yesterday. Asked whether police were entitled to break the criminal code the deputy chief replied, 'In some circumstances, that may well be necessary.' He added the policeman doing so would have to be prepared to face charges and possible conviction," and so on.

Then, of course, there was the evidence in that case about which I don't want to comment. A Canadian Press dispatch from Ottawa appeared in the same paper, I think, the same day, "RCMP Commissioner R. H. Simmonds said yesterday the Mounties should use common sense in deciding whether to obey the law if it conflicts with their duty to protect the public from violent criminals." That to me, seems a most unusual statement of the position.

"Mr. Simmonds said as far as he knows"—and I'm not quoting Mr. Simmonds to get at him but to illustrate my point—"all Mounties now obey the law." That shocks me, especially given my childhood recollections of the RCMP. I'm glad now they're living up to my childhood—

Mrs. Campbell: Ideal.

Mr. Renwick: Ideal. I guess the other part was more accurate—they get their man. "But he added that there are some grey areas of activities in which the law is open to interpretation. An act that ordinarily would be considered criminal would not be a crime if performed by a policeman during his duties with no criminal intent.

"As an example, he said that when judges grant warrants for policemen to install bugs or wire-taps, they assume the policeman may have to enter someone's home or office to install them. Such surreptitious entries are not break ins, Mr. Simmonds said, because the policeman had no criminal intent."

I agree there are a large number of problems involved in that. But I don't think the public interest is served by the Attorney General or the Solicitor General or an officer of the government, when the occasion arises, making a statement about it which appears to say, "Oh, of course they must obey the law and of course they are subject to the law," when that is obviously in definite conflict with what some policemen may very honestly believe to be their positions as they go about their role of performing the law.

Mrs. Campbell: The crown seems to be confused.

Mr. Renwick: Yes, and the crown may very well be confused as well. Certainly, if I understand the case, I think the two police officers—or so the Attorney General indicated to me—are appealing their conviction, even though they were granted the absolute discharge on the grounds that they feel what they were doing may have been wrong, in the sense that what they did was wrong, but that it was justified in the circumstances. Justification is known to the law as a defence.

I think the point has come where there has to be some sort of statement about it. I am not suggesting it can be done overnight, but I would hope that at least the secretariat would consider seeing whether it is possible to express, in two or three or four pages, a carefully thought-out statement about this vexed question.

Some people say, "Oh, well, if they have to break what the law is now in order to perform their duties, maybe we should change the law so that what they are doing is no longer an offence." That again seems to me to be begging the question. I don't think you make an exception to the law of break-and-enter by saying it is all right if police officers are installing bugs authorized by a judge of the court. That is a justification, the same as self-defence is a justification in case of assault cases.

If you will excuse me, Mr. Chairman, I am going to deal with the rape crisis matter, and then one other brief matter that I have.

I want very clearly to urge you to fund the rape crisis centres. I do so in the hope that, without having a sunset law on the funding, there will come a time in our society when the rape crisis centres will not be necessary because the attitudes of society will have changed to the point where that is not necessary—where the victim of a sexual assault is not subject to the pressures and taboos and the psychological oppression of this society which has required that these rape crisis centres come into existence.

Until that happens, I think it would be helpful to separate the fact that those are absolutely necessary at this time in our society. It is not a question of the law or anything else; it is a question of a social attitude which wreaks vengeance, apart from the criminal law, on the victim of it. This is done whether or not the victim is put in the position where she either cannot talk about it, or is frightened by it, or desperately needs some kind of assistance for it, or whether it is the traditional justification of people coming into the big city and having no friends or relatives, or whatever it is. I hope one of the stages would be that they would cease being simply rape crisis centres and deal with questions of sexual harassment in a broader sense of the term.

[3:30]

I am quite literally, as a man, continuously and totally astounded when women speak to me of the kinds of verbal assaults men throw at women in Toronto. I don't particularly consider myself a purist, nor do I consider myself as having been brought up in a monastery about it. But the kinds of assaults which women have come to accept as part of living, except when they happen to be extremely obscene or extremely vulgar, are part and parcel of most women's lives from the time, I suppose, they are born.

Our problem, as men legislating in this field, is that we never really have a clear understanding of what it is about. Moving from verbal assault, to gesture assault, to actual physical contact assault, to rape, there is a broad spectrum of harassment in our society that men are not subjected to. Women are, but up until recently took it as part of their lot, I suppose, because of the social pressures of society.

I don't think it has to be seen as some kind of a strident form of women's liberation. It is an attitude of society. These centres are trying to provide a method of response to a social attitude problem, and not to a problem in any way related specifically to the criminal law problems, and all of the problems that the Criminal Code—God bless the uncle of Virginia Woolf—have heaped upon us over the centuries.

When I was at law school, and I am quite certain when the secretary was at law school and when my colleague from St. George was at law school, I thought the rules were very reasonable. It seemed to me to make sense: the need for corroboration, and the need to report within 38 seconds after the attack had taken place. It seemed to me terribly reasonable. The crown, old J. W. McFadden, lectured to us in criminal evidence and it seemed quite proper.

But my attitude has changed. I am sure many people's attitudes have changed, and we simply have to provide that kind of support.

I have watched any number of these initiatives taken by citizens to establish centres, in very limited circumstances, to respond to perceived social needs. Instead of being able to

go about their job, they have to spend most of their talent trying to get the funds to do the job, with the result that the quality of the service they are trying to perform dwindles. Every three months they are faced with, "Where are we going to get the money for the next three months?" The people who want to do the work have to spend most of their time in this suppliant role of trying to get the money.

I am not asking for a lot of money. I don't think the centres are asking for a lot of money. They are prepared to operate on very straitened and minimal types of budgets.

But I think the government, certainly as the catalyst or the focus—and perhaps very easily if the government were seen to take a positive initiative in it—could go to half a dozen of the major foundations in the province and say: "We are going to contribute this amount of money. These are their budgets. We have received them and we think the social need is there."

Look, let us not face them. Let us give them funding for the next three years and let's provide a review procedure that provides that after two years we'll look at it again, so their funding is not an all-consuming operation for them.

I am quite certain that foundations, from the kinds of contributions they've made to other organizations—foundations like perhaps the Atkinson Charitable Foundation, most likely the Laidlaw Foundation, and a number of others—might very well, because it's not a lot of money.

In support of what my colleague from St. George said, I simply think it is a social attitudinal problem which is nobody's fault in particular, but which permeates society. The individual victim has the same problem of social pressure with respect to the response they make. I am quite certain some people can deal quite adequately with that kind of a traumatic experience, but I would guess there are instances, for both men and women, where they think they could deal with them, but it happens to hit one of those deep-seated social attitudinal matters that would make any one of us cringe and be unable to cope.

I am delighted the secretary raised it with us and gave us the opportunity to make a comment about it, because I think it's of crucial importance. I am frankly very interested when I read about the whole rape question. It's got into the study phase.

Going back to what I said earlier, A Study of Rape in Canada, this multi-phase project which was begun in the fall of 1973, goes on and says, "The researchers are currently preparing a monograph based on the findings of all phases, which will include a comparative analysis," and so on and so forth. This is 1979. I wouldn't have thought the study would necessarily take that long. It is probably very valuable. It's depressing to think we're dealing with the problem this way when the people on the street are the ones who are trying to cope with that social problem. They shouldn't be subjected to problems with their funding. I think a large number of members of the assembly would be supportive, within limits, of the comments made by myself and by my colleague, the member for St. George, about that issue.

The last item I have, simply because it came to me last, is: I received a letter dated December 7. I assume that perhaps others have received it—and I knew nothing about the matter until it came to my attention—from the Citizen Dispute Services, 195A Bank Street, Ottawa, Ontario. It was signed by Therese Lejeunesse and Christie Jefferson. It looks as though it's a circular letter. I don't know; maybe they found that I was the critic of this secretary, or whatever.

Enclosed with it is a letter to the provincial secretary, dated September 16, 1979; they are very much upset and concerned about the result of the discussions which appear to have originated with Norman Sterling, the parliamentary assistant to the Attorney General—probably because of the proximity—about the funding for their project. Their distress is obviously caused by the letter to them from the Attorney General, dated September 20, 1979, flatly refusing—perhaps I could just read the pertinent parts of the letter addressed to me.

"We are writing to inform you of a matter which may interest you as a member of the opposition in the provincial Legislature. A group of citizens in Ottawa has been attempting for over two and one half years to establish a voluntary mediation service for disputes of a criminal nature. In February 1978, we undertook a four-month feasibility study which culminated in a detailed report and a funding proposal for Citizen Dispute Services of Ottawa. The proposal was supported by a wide cross-section of individuals and organizations, including police, judges, legal aid, community service centres, citizens' services and mediators.

"The federal government subsequently expressed a serious interest in fully funding our service on a pilot project basis. This funding, however, was contingent upon a letter from the provincial Attorney General stating he would have no objection to the existence of our service. We entered into a long series of discussions with provincial authorities. These

negotiations were to no avail despite a clear impression our services met legal and program concerns raised during the course of our discussions. Mr. McMurtry has flatly refused to allow us to exist. Furthermore, our proposal itself was not addressed in the terse refusal we received."

Then they raised two matters for my attention. It's sufficient to say the study was attached, along with the dates they had various meetings with the Ministry of the Attorney General.

I neither know the people concerned nor do I know the details of their proposal. It seems, on the face of it, a reasonable proposal. In the initial instance, there's no request for financial contribution from the provincial government. If you have not already done so, would you review again that project and in any event, communicate with them and let them know you are taking the matter up? I would like to report I had raised the matter in these estimates and you indicated you would review it or have another opportunity for you to meet with them about it.

I gather at some point what appeared to be a hopeful solution to the problem, on April 30, 1979 among other things, meeting in Ottawa with Archie Campbell concerning a letter of no objection from the Attorney General, commitment to obtain response within two weeks. That was April 30. On May 29, "a telephone conversation with Norman Sterling stating he had met with the Attorney General and the minister would sign a letter of no objection for our project to begin." On June 4, "a telephone conversation with Archie Campbell who noted continued opposition within the ministry to such a letter." There must have been some problem that ultimately led the Attorney General to turn it down.

I ask that the matter be reconsidered and reviewed and that you contact the writers of the letter, the same people who wrote to you and wrote to me in December. Perhaps I could ask the clerk to make copies. I don't think we need copies for every member of the committee, but I'm sure Mrs. Campbell would like to have a copy of this as well.

Thank you, Mr. Chairman. I've gone on at some length, but these were some of the matters which came to the surface as I tried to review the minister's estimates.

Mr. Chairman: For the information of the committee, since we do try to divide the time equally among the parties, Mr. Renwick spoke for an hour, Mrs. Campbell for 22 minutes.

Mr. Renwick: How long did I speak?

Mr. Chairman: One hour. You started speaking at 14:42. It was very interesting none the less, but I note the times.

Mrs. Campbell: You should have been here this morning.

Mr. Chairman: I'm afraid I was flying over your riding this morning.

Mrs. Campbell: You've no business flying over my riding. Stick in your own riding. Dropping leaflets, no doubt.

[3:45]

Mr. Chairman: I'm sure I cause a lot more problems for you when I land, Mrs. Campbell.

For the sake of the committee I would like to remind members they will have received a notice that on Friday the Minister of Colleges and Universities and the Minister of Education will both be here to discuss Bill 19 with the committee.

Mrs. Campbell: Is the preamble ready?

Mr. Chairman: The minister will be presenting a report to us and the report, I believe, is just being sent out to every member with a statement of objectives.

Mrs. Campbell: I haven't seen it yet but I will be glad to review it.

Mr. Chairman: I remind you of this because there were members from each of the parties interested in this matter. If you wish to arrange for any substitutions on the committee, feel free to do so.

Mrs. Campbell: The committee gets the darnedest assignments, that's all I can say.

Mr. Chairman: The minister, no doubt, has a great deal to reply to from the critics and I invite his comments.

Hon. Mr. Walker: I tried to keep everything in my mind and I will try to reply to them all, one by one.

I look upon my role as Provincial Secretary for Justice in a very humble way, in that it really is not much more than a coordinator of services being rendered. I am not a supervisor or a superior to the individual ministers in the field and I do not treat them that way. I would be presumptuous if I did. I believe it is following a precedent that has been well established and was part of the designation of the role of Provincial Secretary for, in this case, Justice, but not to exclude the other fields, the social policy and the resources policy. Consequently, when ministers operate within their own field—my field is Corrections—I do not interfere with that role when I am the provincial secretary, nor would I interfere with the role of the Attorney General, nor the Solicitor

General, nor the Minister of Consumer and Commercial Relations, as they perform their day-to-day operating responsibilities. I treat them as being individually and solely responsible for the activity within their ministries. I am not there to tell them what to do.

I have a responsibility to bring together issues of substance that cross individual ministries within our field, be they budgetary matters or other matters. Many of these other matters, incidentally, were raised today and they cross many fields. When we talk about the role of police, as Mr. Renwick has touched on, and their relationship with society, we are not just talking about the Solicitor General, we are also talking about the Attorney General and the whole concept of justice. We may even be talking about my own responsibility in Corrections, although certainly to a lesser extent. Probably we are talking about Mr. Drea's responsibilities in Consumer Relations as he is, in many respects, a policeman as well. So I treat it not in a unique way, but a reasonably hands-off way, bringing together the ministers where I think it important to discuss significant issues of the day.

I am pleased to have received many of the matters raised by you today because some of them I have not embraced in my own thoughts. Some of them, it is fair to say, I have not even heard of. I suppose that is not unusual having been the Provincial Secretary for Justice only within the last few months.

We have weekly meetings, usually on Thursday mornings, subject to intervening things such as the Mississauga disaster which became our own disaster in so far as programming meetings. Our weekly meetings each cover an agenda established in part by individual ministries and in part, by myself. Perhaps this is a bit different from what has traditionally been the role whereby agendas have been, to some extent, pre-established by reason of certain policies. For instance, legislation automatically goes on to the policy field for discussion. Therefore, it becomes an agenda item and, therefore, a position is taken as a result of what might appear that morning.

I have attempted to introduce into our policy field somewhat greater freedom of thought in the sense of unstructured agendas. Our agendas are structured ahead of time, of course; we know what we're going to discuss when we get there, but the agenda is created through any of the ministers saying, "I would like this matter to be discussed." Often, the items start out at the previous week's meeting during our general session at the beginning of the discussion—we meet very early in the morning so we have breakfast. As we work through our breakfast we often come up with a number of the issues that ultimately become the agenda items in future weeks, often the very next week.

As well as that, I draw into our agenda those items that I consider, as I sit back in my role of provincial secretary, to be important ones for us all to deal with. That is the way the agenda is established.

There are certain fixed things that turn up on the agenda, and we know that. Any legislation must come through us. It all goes back, I think, to the report of the committee on government productivity of 1971 which indicated an attempt on their part, in their design to take away some of the powers of cabinet and move the powers, or at least the responsibilities, to a committee level of cabinet which then becomes a recommending force to cabinet. Cabinet, thereafter, is likely to accept the recommendations, except in the face of grave doubts on the part of a significant number of people, which is not unlike any caucus operation. Mr. Renwick, your caucus seems to parallel it in the type of approach.

Mrs. Campbell: We all do, I think.

Hon. Mr. Walker: I gather that's the case in the Liberal caucus as well.

With that approach in mind, I take the position that the individual minister is entirely responsible for the functioning of his ministry. While I may have comment to make as a Corrections minister sitting with him or as a provincial secretary chairing a meeting or as a person putting that item on the agenda, by and large that individual minister must bear the responsibility for anything his ministry will do. I operate strictly as a co-ordinating force.

In our policy field we also function somewhat differently than other fields and somewhat differently than the justice policy field did prior to my becoming chairman of it. That is, we do not have, generally speaking, the attendance at these meetings of staff and of deputies. We've found that to be very useful. At times, we lack some things we realize we should have had, and it has its shortfalls from time to time. But by and large, generally speaking and on balance—if I can use all those clichés—the fact is that we think we end up with better discussion and better decision-making as ministers—taking the subjects and working them over with our particular biases coming in—than perhaps other ways would accomplish. To some extent, the justice field differs from other fields. The other policy fields occasionally experiment with our ap-

proach which has been an experiment on our part, now, of three or four months' standing.

Mrs. Campbell initially raised the concerns, as I recall, about the conflict,—she felt there was one—between the role of the Solicitor General and the Attorney General. I'm not sure that it's in my domain to resolve that problem although I appreciate that you may raise such points with me. I can say that superior officers have the responsibility for making these decisions as they may see fit.

I am reminded of the time when I sat in the Legislature in 1972 and the bill came in to create a separate Solicitor General's function and to put police responsibility into the role of Solicitor General and to have all that area taken from the Attorney General. I know Mrs. Campbell's view is that things have changed since then, and that's probably the case. But at that time the Liberal Party represented by Mr. Roy, the member for Ottawa East, and the New Democratic Party by Mr. Lawlor, the member for Lakeshore, made it very clear they felt it was the wrong way to go to actually create a separate role of Solicitor General. They felt police responsibility should be retained by the Attorney General.

That is not unlike what it is today with most of the other provinces; the only exception being Alberta, I believe, which has a separate Solicitor General. I think I'm the only minister of corrections in Canada. All other corrections ministries and all other Solicitor General functions, all other police matters and most matters relating to all of these are housed within the role of the Attorney General. So there is certainly some precedent in the rest of Canada for it. There are certainly the views expressed by the Liberal Party and the NDP back in 1972 that they were much opposed to the change of it.

Mrs. Campbell: Mr. Chairman, if I may, I don't like to interrupt but it does seem to me that, notwithstanding what some may believe, the members of this Legislature are by and large human beings speaking in the context of their time. I am, with the greatest respect, a little weary of having this dragged out every time the question is raised, simply because certain matters may alter circumstances. I would like to start at that point rather than going back in history.

I stated in my opening remarks that there was no question that our party, at that time, with some of our most brilliant spokesmen—I think the late Jim Bullbrook was one of them as well—certainly took that position. I can answer for at least one of them whose view has changed—and that is Mr. Roy. I cannot of course question Mr. Bullbrook on the subject, but it doesn't seem to me to get us anywhere by reverting to a debate at another time in a different context. I would like to address it in these times.

Hon. Mr. Walker: That doesn't change my comment.

Mrs. Campbell: No, we get it every time.

Hon. Mr. Walker: There certainly was a view expressed back then—

Mrs. Campbell: Right.

Hon. Mr. Walker: —that shouldn't be kicked up. I can appreciate that today the Liberal Party may have reversed its position. That's fine. I suppose occasionally all of us change our views. I would hope—

Mrs. Campbell: I would hope the government might not just take the view that they learn nothing from mistakes.

Mr. Renwick: If I could just interject on that, I tried to avoid that sand trap the Attorney General raised as Attorney General and he raised as Solicitor General and you are now raising as Provincial Secretary for Justice.

[4:00]

I think it's fair to say that no party in this House would have agreed to the creation of two ministries with one minister—that's quite simple. I think the other question, whether or not the Solicitor General's ministry is to be reincorporated back into the Attorney General's estimates, is a debatable topic. We could debate that. But certainly we do not agree to a single minister having both portfolios. That is bad for the administration of justice.

We have tried to indicate that. It's one of the areas in which the Liberal Party and ourselves, as a result of the experience of the last few months, are in unanimous agreement. The fact is that at the time the Attorney General's ministry had grown like Topsy, was encumbered with every conceivable field of endeavour, there was a process that went on of stripping off certain functions and hiving them off into ministries. The Ministry of Consumer and Commercial Relations was one. They took a number of jurisdictions out of the Attorney General's ministry because it was impossible for him to operate. Then they decided to take out the other items.

We could understand what the reasons were. We had some real questions about police responsibility being taken out, because as the introduction to the Provincial Secretary for Justice's estimates both this year and last year indicated, it's all of a piece.

Different people in different parts of the piece may look at it differently, but it's all of a piece. Certainly the first two parts, the enforcement part and the justice system, are inextricably entwined. I happen to believe corrections is as well. Whether or not that particular division should have been made or not, it seems to me a good debate was made at the time about it. There were reservations expressed about it.

Hon. Mr. Walker: Your reservation was the halving of the police, as I recall; that you didn't want that police part of Solicitor General halved off from the Attorney General.

Mr. Renwick: You have the police now in a ministry with its own bureaucracy. Then you have a bureaucracy for the Attorney General and, leaving all politics aside, the minister holding the two portfolios is put in very difficult situations, with choices he has made which he shouldn't have been faced with making had the police been either in his own ministry or had there been a separate minister for that ministry. He refuses to see it that way, or at least he certainly doesn't give any indication that he will admit that it's wrong, but it is seriously wrong.

In the printout that I referred to about references which you have made over a long period of time, one of them, of course, was at the time of the so-called mini-cabinet shuffle last September when you took on this additional role. While the Premier didn't say it, he is quoted as having agreed that the reason he didn't move Mr. McMurtry out of the Solicitor General's role at that time and put in someone to take his place was because of the Albert Johnsen matter and the police situation in Toronto. But it wasn't stated as the reason, and never has been stated as the reason. There's nothing to indicate that it was temporary and I am very concerned that it has become permanent again. I'm very worried, not only for that reason, but I've said it all before. I share with Mrs. Campbell the view that I don't feel very upset about the views which any of the parties held at the time the division was made. Experience—if I could coin a phrase—is the best teacher. Experience shows that there are very serious problems with this.

Hon. Mr. Walker: I gather when the Attorney General was before you, and when the Solicitor General was before you, he indicated there was no conflict that he had seen so far. I do recall the Attorney General making the comment when he was appointed to the position of Solicitor General in 1978, I guess it was, that if he at any time felt there was a conflict he would appeal directly to his Premier for direction on the matter and in effect turn it over to cabinet. I gather he stated earlier in November that there was no conflict.

Mr. Renwick: I have not only all the lawyers in the Attorney General's ministry irate against me, I have all the lawyers in the Solicitor General's ministry irate against me with respect to the plain language of the Coroners Act which I again asked him to take under advisement. How you beat them all into line I don't know.

Hon. Mr. Walker: We have different views within one ministry.

Mr. Renwick: I wouldn't want that problem referred to the Premier. I think he could solve that problem.

I'm saying that kind of detached judgement has led to a serious conflict. One other time, too, a lot of lawyers in the government were opposed to me about the Anti-Inflation Board legislation. The only solace I had was perhaps one or two of my colleagues in the assembly; and that was rough.

Mrs. Campbell: The Liberal Party was pretty clear on the AIB. We don't hear about that these days.

Hon. Mr. Walker: That certainly didn't involve the Solicitor General and the Attorney General at the time in the sense that they were not one and the same when that issue was extant.

I have not heard of any conflicts that exist—

Mr. Renwick: The point I wanted to make was that the lawyers who are now in the Solicitor General's ministry, the senior appointments, came ffrom the Attorney General's ministry. The Deputy Solicitor General —and I have a great deal of respect for him—came from the Attorney General's ministry. They all belong to the same priesthood.

Hon. Mr. Walker: I guess every lawyer within the government of Ontario has come from the Attorney General's ministry in effect, because they are the seconder of all the forces. In effect you could say the lawyer in Environment or the lawyer in Revenue or the lawyer in corrections came from the Attorney General and you would be absolutely right.

Mr. Renwick: Even the Attorney General said that was fairly tenuous in so far as connection with some of the lawyers in some of the ministries was concerned.

Hon. Mr. Walker: From time to time when one argues with some of those lawyers, the tenuousness of it is certainly not apparent.

It becomes very apparent that they have a connection.

I have heard of no conflict. As a secretary, I have considered the question and realized that no one has mentioned whatever the conflict is, if there is in fact a conflict existing.

The feeling of Mr. McMurtry was that if a conflict ever did exist, he would bring it to the attention of the Premier and I'm sure he would. I have no doubt whatsoever that would be the case. I have not heard of any in the intervening months during which he has been in the combined portfolio. I would have to think that if the occasion arises, he probably more than many would be the first to recognize it and would immediately bring it to the attention of the appropriate officials, particularly the cabinet.

The Barrie trial issue was raised—

Mrs. Campbell: Excuse me. Before that I did ask what his role is as he sits in the cabinet committee. Perhaps in that way we could come to grips with the issue. I understand his role as Attorney General and as a member of the cabinet of government dealing with legislation which is processed through his ministry—there is no problem there. But in any discussions about policy matters, it's important that you and I understand his role because the thing we have been saying for a long time is that the role of the Attorney General in Great Britain is an extremely objective one, except in the legislative field.

When the Attorney General meets with you as a part of a committee of cabinet in discussing broad policy issues, what is his role? Is he a cabinet minister? Is he the Attorney General? How is that role perceived and how is it carried out as a member of cabinet? As you are aware, in Great Britain the Attorney General is segregated from cabinet, physically and otherwise, save and except in that field of legislation.

Hon. Mr. Walker: The Attorney General acts in two, maybe even three, roles when he appears within our committees. He obviously has the responsibility of being an adviser to the executive and in that role he carries on that function directly reportable to the executive and to the Premier. That has nothing to do with the secretariat.

Mrs. Campbell: Perhaps that's where the problem starts. This is one of the few provinces where he is an adviser to cabinet as opposed to being adviser to the Lieutenant Governor in Council. There is a very definite distinction made in other provinces. That is a role I have questioned and he seems to be unable to give me any answer I can accept, or any answer which, to me, constitutes an answer. So you start with the premise that he is the adviser to cabinet, which is contrary in my view, to the traditional role of an Attorney General. That may be where our conflicts start.

Hon. Mr. Walker: Yes, there could be some room for argument there. The second role he has is that of a cabinet minister, be it the Attorney General cabinet minister, or be it the Solicitor General cabinet minister, in which case he puts on the appropriate hat. I would have to say at no time in my dealings in meetings I've been involved in have the two intertwined.

Mrs. Campbell: You should have been here for these estimates, both Attorney General's and Solicitor General's. You might have come away with a different impression. Would you agree with me, Mr. Renwick?

Mr. Renwick: I would think so.

Mrs. Campbell: I don't know how he distinguishes.

Mr. Renwick: The reason I didn't pursue the point Mrs. Campbell raised in the estimates—and it's quite proper that it was raised—is that I share your view there's very little you can do about that problem, even if you were to agree with us.

Mrs. Campbell: One always has the right to recommend it to a committee.

Hon. Mr. Walker: We don't take votes. We always operate on the basis of consensus.

Mrs. Campbell: Consensus—even the Attorney General. That's interesting to have on the record.

Mr. Renwick: I think he probably has two votes.

[4:15]

Hon. Mr. Walker: I don't wish to make a comment on the Barrie trial. I don't mean to evade questions, but I considered the matter. Of course, I followed it in the media, as most of us have in the last while, and must say it raises a lot of questions which we, as a government in the small "g" sense, are going to have to identify and resolve. These are very important issues.

As a matter of fact, the matter covered 60 pages in Hansard during your discussions earlier with either the Solicitor General or the Attorney General. I gather it would be the Solicitor General primarily, because it was at the time the trial actually occurred. Now, I gather, it is under appeal and I think a comment by me at this point, would not be very useful. The matter being under appeal, I can't say much other than that the issues raised are important and undoubtedly

are going to find their way on to the agenda in the next period of time, presumably once some of the business of the House is out of the way.

Mrs. Campbell: Perhaps one of the things it does indicate is that there seems to be, in my view, a lack of differentiation between the role of a crown, in advising and carrying out his, or her functions—

Hon. Mr. Walker: Which crown are you talking about? There is one who testified and one—

Mrs. Campbell: That's the one I am talking about. It clearly seems to indicate there may be a clash between the role of the crown as an officer presenting a case rather than seeking to win a case. It raises the whole question of the investigative role of the crown, which we discussed very thoroughly, and whether or not in the context of what Mr. Renwick has said about the police, there hasn't been an Americanization of the crown; the definition of the role of crown may well be approaching that of an American district attorney, who plays a large part in the investigation, counselling the police and in the identification with one group as opposed to another. The question of objectivity is a matter of great concern to me. It flows, it seems to me, from the overview of the Attorney General, right through the crown on the Attorney General's side.

I don't think that issue has anything to do with the appeal itself. I'm not talking about the merits of the appeal, but about role playing.

Hon. Mr. Walker: I am reluctant to get into that—

Mrs. Campbell: Yes, I understand.

Hon. Mr. Walker: —for obvious reasons. The item has been reasonably well canvassed during the period when no appeal was going on and I think it would be ill advised to get into it at this time.

Mrs. Campbell: I am addressing it on the basis of your statement that you perceive no conflicts. This is the kind of thing which can create conflicts in two roles. I would like you to look at it from that point of view.

Hon. Mr. Walker: But you are not saying there is a conflict.

Mrs. Campbell: Yes, I am saying there is. I am trying to draw to your attention evidence which you say you have.

Hon. Mr. Walker: I thought you said there could be a conflict.

Mrs. Campbell: In this particular case, yes.

Mr. Ziemba: Could I ask a supplementary on that? This is with regard to the Barrie situation. I want to ask this question because I have had another constituent come to me with this same problem. That is this whole business we talked about earlier this morning, about being shackled to the system.

For some reason or another the system denies access to certain people and certain classes of people in our society. This morning I read a letter. I should have brought it down with me. It is from an East Indian who was assaulted outside the Swiss Chalet restaurant. His assailant accused him of cutting in the line. There was an altercation when he went out to his car and he was injured. Later he was taken to hospital.

To make a long story short, he thought the police would act quickly on this complaint. They didn't and he had to be advised to go to the justice of the peace and swear out information. That is the point I am coming to. In the Barrie situation the police had no difficulty at all in arranging for people to be charged.

Hon. Mr. Walker: We are talking about two different things I think.

Mr. Ziemba: I'm sorry.

Hon. Mr. Walker: You are talking about your Barrie situation and Mrs. Campbell is talking about the trial in Barrie involving the two policemen from Toronto.

Mr. Ziemba: Oh, I am very sorry. I will hold off my questioning until another time.

Anyway, there is only one more comment I would make on that point and I will leave this with you for a comment later on. The police lay all kinds of charges but on the other hand when workers want to lay a charge they find it impossible to get a JP to accept their information and their statement. There have been five such instances. One that I am personally involved in concerns the JP flatly refusing to accept their statement. In all cases they were trying to charge the police who had assaulted them. Of five such instances to my knowledge there hasn't been one successful information laid with the Barrie JP.

I will leave that with you and perhaps you can find out about that, Mr. Minister, and tell this committee about it another day, unless you have the information now.

Hon. Mr. Walker: The situation in that community might be worth looking at. I know that is not the experience elsewhere in Ontario.

Mr. Ziemba: It is with the visible minorities. Many of them have come to me with

this complaint. They say because they are a minority group the police aren't responding to their needs. Why can't we just get the police officer on the beat to look after this type of situation? They feel this is one of the problems they have. It isn't a problem just for them. You are quite right, Mrs. Campbell, but for whatever reason this seems to be a sore point with minority groups. They cannot get police to act when a crime has taken place and when they have been assaulted or something like that has happened.

Mrs. Campbell: You just have to take a look at the history of the rape cases, for example, where women could not get through the system. With the Christians you have the problems of people who when picked up by the police and themselves want to lay charges of an assault, they are met not with a charge but with a counter charge which is accepted by the police. In this one case I cited, a 100-pound woman had assaulted these police officers.

It is not unique. I think we do a disservice in some respects if we try to say it is unique to a certain group, because then nobody looks at it as a global matter. I think it needs to be looked at as a global matter, as to how people's rights are enforced in our justice system.

Mr. Chairman: I wonder if the minister is aware of lawyers having a tendency to tell certain types of people with certain types of charges they want to lay, to go to certain locations where they will find JPs who are more responsive to them than others? If that is the case then would that not indicate to the minister that perhaps there is a problem in the system? Those problems can be pinpointed geographically, if not specifically to individual JPs.

Mrs. Campbell: I think that here rests the whole darned thing.

Mr. Chairman: Mrs. Campbell do you want to carry on?

Mrs. Campbell: No, I would like—

Hon. Mr. Walker: It can be a problem that some JPs are not responding in a way most of us would feel comfortable with. Where a JP has good and sufficient ground to lay a charge, then a charge should be laid and that is probably a common denominator that applies throughout the province, although I hear the odd exception mentioned and I have to conclude some areas are not as well served as others. I suspect that involves personalities and the feelings of the local bench. I'm not sure because the local bench has some involvement with the functioning with the local JP, so there may be some direct relationship. Perhaps that type of thing can be cleared up by some kind of directive as we resolve these problems. Perhaps a directive has to go out from the Attorney General to individual JPs.

Mrs. Campbell: If the minister could review the transcript of the discussions we had under the new bill to increase the powers and the jurisdiction of JPs it might be helpful. There was a considerable discussion about the present situation and a concern that without proper direction and proper education, the results could be very uneven as you enlarge the jurisdiction. That was a caveat that as we all accepted the new legislation we would not come back some time later and say we did. We did, but we did with that proviso that it was absolutely essential for some steps to be taken to ensure everyone understood the role.

So I don't want some day in the future to be faced with, "Yes, I supported that bill." I did, but with conditions attached. Some were conditions which arose out of the Quaker presentations to the committee. They had some pretty horrendous stories to tell. That is the problem when you go back. They weren't even in context always, but they were raised, and if you haven't been aware of them, as the Justice secretariat, it is incumbent upon you to become aware of those discussions.

Hon. Mr. Walker: We are combing through the debates in this committee, as each of the individual ministries had come forward. Our people are familiar with a fair number of the topics raised.

Mrs. Campbell: This is not in estimates. This is in the discussion on the bill carried by Mr. Sterling in committee.

Mr. Ziemba: I must take strong objection to your statement that in some communities, the administration of justice may be tempered by the feeling of the local JP. Why would that be? Isn't justice supposed to be even-handed?

Hon. Mr. Walker: It's not unlike policemen from community to community. Why do some police charge virtually every accident there is? There is an accident and usually two people are charged in it. At least one person is charged in it, and other communities don't charge at all.

There is a certain unevenness to it. It often depends on the individual attitudes within a community. Not only would it depend on that, but I suspect it depends on the individual personalities who perform the

role of the justices of the peace. In some cases justices of the peace are full-time, very professional type of people in that they have been practising the job a long time and they enjoy a lot of experience which can't be ignored.

[4:30]

In other cases some justices of the peace wouldn't entertain one assault in three years, and the one time that they do, they perhaps govern by the dictates of their conscience at that time, which may differ from what a professional or a more experienced individual might do. So there is undoubtedly an unevenness. If we are to provide justices of the peace in the more remote communities, we have to accept the fact that they may not have the same degree of experience as someone who is operating in downtown London, whom I would know quite well, or in downtown Toronto.

Mr. Chairman: But Etobicoke is not some remote community, in my experience.

Hon. Mr. Walker: Just a minute; there are some who—

Mr. Chairman: Mr. MacBeth, I'm sure, would assure you that it isn't all that remote. My experience has been that I may have a constituent and I send him to a lawyer; we check over his complaint and the lawyer feels that he has reasonable grounds for laying charges. Then the justice of the peace says, "No, that is a civil matter." Then you go and get legal help and handle it in a civil manner.

Hon. Mr. Walker: Who is right? The lawyer? Or the justice of the peace?

Mr. Chairman: I don't know, but it recurs so frequently it makes me wonder as a layman whether these lawyers I have sent people to who have had years of experience before the bar, or a justice of the peace, are in the best position to decide whether it is a civil matter, or a criminal matter.

Mrs. Campbell: Perhaps the proof of the pudding is if they go to another JP under what you have said.

Mr. Chairman: That's what we do; we send them to another JP.

Mrs. Campbell: So you get the information and what happens in the court? I think when you get to the court and you get your decisions you begin to build up a body of useful evidence for your position, or against it, whatever the outcome is.

Mr. Ziemba: Except you may not get that opportunity, Mrs. Campbell. In the Barrie situation there is no other JP. I am told that the union is trying to get a JP in the Toronto area, who would have jurisdiction over the Barrie area, to act to lay these assault charges against the police. So far they have been unsuccessful in doing so.

It is a real problem and I worry that you are denying justice to a whole community, just because they are on strike. There is no reason why they should be denied access to the system.

Mrs. Campbell: The difficulty is, in the justice ministries they do not accept Mr. McRuer's position that you cannot divide justice. As he says, "I am not interested in more equal justice, I am interested in justice." We are content to limp along with what we call justice, which is not the same all over the province. That is something which really bothers me.

I think we are living in an unjust society if we don't have justice. It is as simple as that.

Hon. Mr. Walker: I guess part of the problem is balancing off the right of an individual to not be harassed by receiving a charge in the mail or by police summons and having to answer to that, in what might be a very expensive manner—and the right of an individual, as Mr. Ziemba has indicated, to lay a charge where it is properly warranted. That is an issue we can't lightly ignore. That is an issue, I gather, that the Attorney General is reviewing quite carefully at the moment, to find out the right balance.

It has been known that some people use charges to harass people. People sometimes use charges, and Mrs. Campbell, in your role as a provincial court judge in the family division, of some years standing, back about eight or nine years ago, I know in what light you viewed the abuse of the process that could be created by a matrimonial situation which generated an unfortunate charge being laid against someone, and justice not being done to the individual because he was hauled into court needlessly. Perhaps he hired a lawyer, perhaps he had gone through horrendous periods of anguish as a result of that process, when you knew very well it shouldn't have been laid. How do we balance out that situation with, on the other hand, the right, as Mr. Ziemba says, of some individual who perhaps was on a picket line and feels he's been, let's say, assaulted or whatever by a policeman or someone else, and who wants to lay a charge? How do we resolve that? How do we find the right balance? The right balance probably lies in the justice of the peace exercising a certain amount of discretion as

to what should or should not be within certain confines.

Discretion is an uneven thing. Discretion in judges' decisions, I'm sure, is uneven throughout the province, although we would like to think it's always absolutely the same. The fact is that it varies from person to person.

Mrs. Campbell: It also varies according to circumstances, and we recognize that.

Hon. Mr. Walker: Yes. All I can say is that it's a matter for justice generally to resolve in fairness to all the parties concerned.

I know the Attorney General is presently investigating the whole issue. He is concerned about the whole issue. I gather he met recently with Mr. Manning, who is the city of Toronto's special prosecutor in some areas, on that very issue. I believe even Mr. Robinette is involved in the whole matter. It's fair to say that the issue is paramount in the minds of the Attorney General's department. It's being carefully considered and no doubt a decision will be reached in due course.

That brings me to the point Mr. Renwick raised about why the Ontario Law Reform Commission couldn't be moved over to the Provincial Secretariat for Justice. It's a rather interesting observation. I've inquired about it myself. We really haven't proceeded very far on the matter. There are other aspects to it as well. While it may be a very good point, I suppose one could also ask if the planning and research components of each ministry should be incorporated into the secretariat, assuming the same principles as the law reform commission, that they are basically planning agencies.

I'm not rejecting it. I guess I'm saying the jury is out in my own mind and, I think, in the government's mind on the matter of what the role of the secretariat should be in regard to that field. It is an issue which is before us at the moment and which is unresolved. I don't see an immediate resolution of the problem either, by the way.

Mr. Renwick: The transfer of the research facilities, or whatever those facilities are, to the ministry is not included in that the law reform commission is a different body. It did seem to me the law reform commission could best be handled through the secretariat with respect to its agenda and what is to be studied and what is to be done.

Hon. Mr. Walker: I was also interested in your comments about why it takes so long for things to happen now. You cited the law that had its genesis about 1971, but which was just recently debated and passed.

It is a long process. I think it probably reflects something that all of us in this room who are elected have realized, sometimes all too well: The consultative process has now become a way of life. You've been around since 1964, I gather, Mr. Renwick, and Mrs. Campbell's been around since 1973. In that period of time alone, even since Mrs. Campbell's arrival, the consultative process has changed dramatically to the point where now almost every step of the way we're consulting on what should be done. Probably we as government—and I say that in the small "g" sense—were dragged kicking and screaming into the consultative process. It's taken a long time to come, but by and large I think it's probably proper.

We've seen a lot of changes even within our own cabinet on these issues. At one point we said; "Nobody is to know a thing about what goes on in cabinet before the matter reaches the floor of the House in the form of a bill handed to the clerk. We'll be darned if we're going to share it with the opposition and we'll be darned if we're going to share it with the public." That's changed quite a bit. Today even the Treasurer consults heavily on what's going to be in the budget.

I think many of us had a pretty clear idea last night what the budget was going to contain. You could see lightning and hear thunder. As the Premier suggested yesterday, you knew your gas tank should be filled earlier in the evening as opposed to later.

The same thing would apply to our present Treasurer and his predecessors in the last several years. There has been more of a consultative process going on as he shares with many what he thinks the new directions might be and where he thinks new revenues might be gleaned.

Bills have quite often been floated ahead of time with that in mind. I think of the Cemeteries Act which has caused some interest to all of our caucuses in the last couple of days. The Cemeteries Act was basically printed in a draft form last time. At my suggestion, it was not brought forward to the Order Paper but rather was sent out to 3,500 places for consideration over the summer. It went out in basically its printed form, not too different from what ultimately surfaced in the House. I got back 60 replies, and 35 were serious replies. Of the 35 serious ones, most of their views were incorporated into the bill.

That's a new process that is developing today. There was a day when that Cemeteries

Act would have gone through rather quickly. I can take you back to not too many years ago when bills were sometimes dealt with in a speedier fashion than they are today. I can only sympathize by saying I agree with you. The process takes a long time; but better that it take that length of time and be correct when it's introduced rather than come up with a bill that suffers from not being too good.

Mr. Chairman: The minister has just given a good argument for minority government. I hope he realizes that.

Mrs. Campbell: I feel like the wife who is always the last to know.

Hon. Mr. Walker: That's awfully sexist, Margaret.

Mrs. Campbell: Well, it's something which has been said. I saw the bill yesterday within minutes, I suppose, of the time it was introduced in the House. In fairness, there was some discussion. But legislation seems to be floated all over the world except to the members of the Legislature.

Hon. Mr. Walker: We're going to put you on our mailing list.

Mrs. Campbell: We invited disclosure, did we not? We were not given that disclosure.

The consultative process, I think, is certainly important; I certainly don't want to see it in any way stopped. But I think it would be very nice if some of the members of the Legislature could be a part of the process where a bill has major implications such as that one has. A colleague of mine, as a result of a rather quick meeting with Mr. Linden, actually brought forward a chart indicating the processes, as he saw Mr. Linden's mind working, and his own processes, which he felt were more acceptable, only to be told: "Oh, I am sorry. I really didn't think you thought there was time for any more input. The bill is here."

We are often put into the position of doing an awful lot of work, apparently with very little reason. We don't see major bills. I'm not talking about all these others, but something as major as that surely should be the subject of major discussion, particularly if you are committed to trying to bring in legislation of that kind, so that we are not placed in the position of almost opposing something that we want too, simply because there isn't time to adequately debate it. I think there will be time to debate it, but the onus is always on us.

[4:45]

Hon. Mr. Walker: I've just seen a change in my own limited time back here from what it was in an earlier day. I think it's probably been for the good. I think more public involvement in some areas has produced much better legislation. On the other hand, I can think of some very clear examples—because of the protagonists in the room I'm not going to mention them—in other areas where the consultative process has, in my mind, led to abuses of the situation. I don't intend to mention those.

It has its ups and its downs and its good and bad. I think on balance we'd have to say it's been a pretty reasonable approach. If minority government has forced that upon us, all well and good. I have no qualms at all in that area.

I was interested too in Mr. Renwick's comments that he went through all the newspaper clippings to find out what I'd said as Provincial Secretary for Justice. I make no apology for that. I don't know how many provincial secretaries for something, be it Justice, Social Policy or Resources, have complained over the past that the one thing they're annoyed about is that they're continually ignored whenever the newspaper writers or the media people make comment. It takes a pretty bizarre issue for them to get any kind of radio or TV time or ink in the newspaper.

I can't say that in three months I've been able to change that, other than to say that when I've talked as corrections minister often it's been difficult to differentiate whether I'm speaking as a secretary for justice or as a minister of corrections. I think particularly of the area of victim justice. In many of my own views on victim justice, how raw a deal I think victims are receiving, it's very difficult for me to differentiate whether I'm speaking as minister of corrections or Provincial Secretary for Justice. Of course, usually the press makes some record of the fact that it's corrections as opposed to the Justice secretariat.

What is a secretary? Half the people probably think it's somebody taking notes. I want you to know, Mrs. Campbell, that at the meetings of the Justice policy field I write up the notes myself. I act as a secretary in the truest sense of the word.

Mrs. Campbell: Oh, dear. I think you have not written very many notes. You haven't covered a good deal of the things that I queried you about in my opening remarks. Your record there doesn't assure me that those notes are more accurate.

Hon. Mr. Walker: I know. You have to recall the fact that you spoke for 22 minutes and Mr. Renwick spoke for 60 minutes. I'm

assuming that you've got another 48 minutes coming, in which case I'll write the notes down even more carefully.

Mrs. Campbell: What an answer. I don't think you mentioned anything about your view of the law of standing, for example.

Hon. Mr. Walker: The one point that you made on rape crisis centres I'm leaving to the end, because Mr. Renwick mentioned that at the end as well. Since you mentioned it at the end and he mentioned it at the end, I'll reserve that for the moment.

Mrs. Campbell: Are we confusing the two? The law of standing really has nothing to do with the rape crisis centres, in my view. Maybe it should.

Hon. Mr. Walker: You have a briefing in your books on the Young Offenders Act—what has been produced in terms of the act itself or at least the comments of the federal Minister of Justice, I believe. The fact is they were just put out a few weeks ago. We received them on the Friday of our conference in Ottawa when the ministers relating to justice attended a federal-provincial conference. We are in the process of formulating our replies to the whole question. Most definitely we will provide you with a day for review on this matter in any way that you may want to set it up. Members of the policy field, some of whom are directly involved with the responses, would be glad to meet with whatever type of format you have in mind. That can be done in January or February as you may suggest.

I would leave it this way: Mr. Renwick, perhaps you'd be good enough to take the initiative on it and when you're ready let us know what you want and how you want it.

Mr. Renwick: Could I ask someone in your ministry to give me a call early in January so we can discuss it?

Mrs. Campbell: Me, as well. I have particular interest in this bill going back a long way.

Mr. Renwick: Perhaps Mrs. Campbell and I and you or your deputy could meet together and just chat a little bit about the format in a very informal way. We could just set it up and do it.

Mr. Sinclair: We will contact both of you immediately after the new year.

Hon. Mr. Walker: It's a very interesting point you've made about the revenue. We shouldn't be collecting it and I'd be glad to see the whole system moved over to the Ministry of Revenue for collection. I've not considered the point other than in the brief moments we've had in the time that you've raised it, but I treat it at first blush as a good point. I would hope we'd be able to embrace that within our field in the not too distant future.

Mr. Renwick: It's revenue that didn't go into the consolidated revenue fund but came back to the justice field.

Hon. Mr. Walker: You have touched a sore point. I would ask you not to pursue that because there are those of us who would give forth with displays that would not be proper.

Mrs. Campbell: You don't really want to have Justice seen as the generating ministry.

Hon. Mr. Walker: Like the Liquor Control Board of Ontario. There are a lot of funds raised, and a good return on investment in some cases.

Mr. Renwick: It certainly is very interesting, if I may make one comment. You see a lot in the press about the cost of the Hamilton Harbour trial, what it has cost the province and so on. You very seldom see any offsetting information. There is a lot of money involved.

Hon. Mr. Walker: I don't know whether we'll get into this now or not, but if we get into those slides at some point, I think you're going to see an awful lot of the things that both of you have suggested. I think you'll see a lot of them addressed in interesting ways. That's something to keep in the back of our minds.

Mrs. Campbell: If you want to consider the consultative process in this one, I think you can start with family court judges who have wrestled with it for a long time and really feel that they shouldn't be in that kind of a role, seeing to collections. You might be bolstered with Revenue in those arguments.

Hon. Mr. Walker: That fits very well into my own concept of victim justice, in attempting to afford a victim restitution in so far as money and other things go. I've been strongly encouraging those things. It's not quite the same in the sense that we're not generating money for the consolidated revenue fund or wherever it may go.

Many victims really do get the short end of the financial stick. We can now say there are 3,100 people in Ontario who are repaying victims of their crimes by a court-ordered restitution. This is something that's new. We'd like to say that it's been around a long time, but it hasn't. We've had to go back into the criminal code and find authority for it. We've pointed it out to judges

and judges have now been awarding that, so there are 3,100 people who are receiving direct benefit from the convicted person. It makes quite a difference in the overall picture, the whole balance, the view taken by the victim of the process and the view taken by the convicted person. The convicted person is starting to appreciate in a more responsible way what's happening. Of course, the victim is starting to appreciate in a more tangible way what has happened to him and it lessens his degree of upset.

Anyway, that's tangential to your revenue point.

Mr. Ziemba: There are 3,100 such cases, did you say?

Hon. Mr. Walker: It's 10 per cent of our probation load. It's a fairly dramatic inroad so far. We have over 30,000 probation cases within the Ministry of Correctional Services at the moment, and 10 per cent of them are making restitution to victims.

Mr. Sinclair: In kind as well as cash.

Hon. Mr. Walker: That's right, in kind as well as cash.

Mr. Chairman: What kind of cases are the most useful, in your opinion, for this kind of process?

Hon. Mr. Walker: I took a stab at a figure. I ultimately deleted it from a speech I was giving once, but 60 per cent of the cases handled in our courts fall into a category that would make them eligible for that. I backed off the figure only because I didn't think I could substantiate it that well. It gives you the impression of the number. We're not talking about a modest number. It works for fraud, for thefts, probably not for assaults, although that's not impossible.

Mr. Ziemba: What about vandalism?

Hon. Mr. Walker: Vandalism is a perfect area for it—probably vandalism more than anything. Vandalism is one where we're making people repair the damage for the crime. They've done things like sand down the buses for the Toronto Transit Commission that they've scraped up with putty knives. When they've got them all sanded down by hand, which is required to be done, and they've got them primed and all that, they've then had to go out and hire the painter to come and spray the thing. They pay the painter whatever his charge is.

We've made people go to the front lawn of an arena and basically smooth over the ruts they've put in the front lawn and replace the damaged evergreen trees that were destroyed when they ran their car over the lawn and the trees.

Mr. Chairman: In cases of racially-motivated vandalism are you finding that this is beneficial to the victim as well as to the person who committed the crime, or does it create such additional psychological pressures on the victim in having to face this person who obviously assaulted his property and who is perhaps part of a community gang that is creating some terror on a particular minority group that it offsets the benefits? What's your experience on that?

Hon. Mr. Walker: I can't give you an example of that. Now that you mention it, I'll make an inquiry and find out if we have a situation that parallels the situation you set up. I can say this: the person who committed the crime discovers a few things. He discovers that perhaps the little old lady he ripped off is not just an intangible, impersonal something out there. He just broke into that person's house and stole whatever it was or vandalized the living room. Rather, what he discovers is that it is an unfortunate soul who has a very modest income and who had to go out and borrow money from the Salvation Army or whatever to repair her living room. He finds out that the individual is frightened to death now of having to open the front door of her house, wondering what she's going to find.

[5:00]

That has been extremely beneficial to the convicted persons. It's a bit too early to tell if we are getting results in terms of recidivism, which is the true test, because we have really only been going with this a few months. On the victim's part, the victim finds some interesting things. One of the first questions asked was, "Why my house?" They think they have been singled out. When they find out from the accused person, by then the convicted person, "We drove up and down the street until we found a house with two newspapers in the front; then we knew that you were not home. That's why your house." So it wasn't a peculiar thing. The victim wasn't necessarily a person from what they thought they might be an oppressed group that they were somehow being discriminated against. People have realized it was because they left the newspapers on the front porch.

They have found out, too, that fellow isn't necessarily so bad. He is the 17-year-old son of so-and-so. This was his first offence. He has had some trouble at home. They take an interest. We have even had cases where some of the victims have actually received in cash, on a weekly basis, a contribution made by the convicted person who hands over $20 a

week for sixteen weeks. It has an amazing effect on the convicted person and on the person who was the victim.

These victim-offender reconciliations are catching on in a degree that would surprise you. Nine months ago we had three communities in Ontario, today we have 15 communities which have victim-offender reconciliation programs going on. We just can't keep up with the demand. The demand is so heavy in other communities. We figure within a year we will be up to around 25 communities in Ontario with this kind of program.

It has probably been the most successful program we have developed in some time. That is the correctional field.

Mrs. Campbell: How are you coming along with juveniles in the same situation? I gave the Attorney General an actual case which had its lighter overtones. There was an order of restitution. I just wondered how it was working there.

Hon. Mr. Walker: The juveniles fall within the category of the other ministry, ComSoc. I have lost contact with what is going on there.

Mrs. Campbell: We would have thought you would have wanted to watch that.

Hon. Mr. Walker: I have lost contact in the sense that they left our ministry in 1978, I believe, or 1977. My knowledge of them is nothing more than what I hear from time to time within the cabinet, which is not extensive.

I don't know why this wouldn't be a very successful approach for juveniles. Don Sinclair, with his knowledge going back a good many years, tells me this is the way it started with juveniles.

Mrs. Campbell: I think it did. But it is not one of the easier kinds of dispositions for juveniles, if you wish to impress upon the juvenile this responsibility. I will tell you a funny story about that some other time.

Hon. Mr. Walker: We have taken sort of a family approach in corrections. When you were a kid and you got into trouble, your old man took you by the ear and marched you down the street and stood you at the front of the house. You went up and you knocked on the door and you explained—

Mrs. Campbell: I did it.

Hon. Mr. Walker: That's right, we all did it. That was justice in the old days.

To some extent we have taken that same approach and we have tried to apply it to our family of people. We have required them to march up to the front door. It has taken a little intermediary work to bring this all about, because sometimes the door wouldn't be opened if they turned up on the front step. We have brought these people in a way that is not dissimilar. They have had to accept the responsibility and realize that they are not just an unfortunate pawn in this whole justice system.

We have had the impression from people who have gotten into jail that they blame everyone but themselves for what they have done. I think that is a terrible situation. It will probably lead them to be very critical of all justice. They will never appreciate the dimension of their crime, and probably will end up returning to the crime because they probably learned a fair amount they didn't know, prior to going to jail, from the more experienced people who had been in then.

Where an individual can avoid jail, and be put to the kind of discipline we think we are sharing with you now, and are experimenting heavily with now in the province, that kind of remedy is far better for the criminal and far better for the victim. It sort of redresses the balance.

We have some interesting situations in the redress. One person up in Thunder Bay reimbursed Chargex—I think it was, or one of the companies—to the tune of $4,000, defrauded on a charge plate. That individual kept his job. He spent a short bit of time in jail, but he kept his job. He kept his family off welfare, which I think was a good thing—and he probably finds himself corrected in the sense of the word of correctional services. That was probably one of the more successful ones.

We will have to wait and see how the situation develops in the future, but I think he learned his lesson that way. We can identify countless examples of that.

I am off onto a tangent a bit, and that's unfortunate, but I'll conclude with the comment that we have a good many people in jail who are, in effect, moved into community resource centres—there are 30 of them across the province and 450 people are in these centres. A large number of them, probably the majority, are earning money and reinstating or repaying the victims of their crimes—be it the insurance company, or shopkeeper, or the individual resident who has had something stolen or vandalized.

We have extended it into that and it is working pretty well, we think. People have to apply to get into one of these community resource centres. They do it through

a temporary absence process. Anyway, that's by the way.

Mr. Ziemba: It's pretty hard to imagine an offender feeling very sorry for an insurance company. Did you get him together with the insurance executive?

Hon. Mr. Walker: He makes his peace with the local people who determine—

Mr. Chairman: He might have ripped off CIAG, Mr. Ziemba.

Mr. Ziemba: Who administers that program? Is it the probation officer?

Hon. Mr. Walker: No, the people in our community resource centres. For a description of them, they look like a half-way house.

Mr. Ziemba: We know about them; there are 36 of them in Ontario on last count.

Hon. Mr. Walker: Thirty.

Mr. Ziemba: Thirty? You cut off six.

Hon. Mr. Walker: There weren't 36. Two or three met with a timely demise. They just were not functioning properly and we had to do something.

Mr. Ziemba: I thought this was a court-administered or probation-administered program.

Hon. Mr. Walker: These are all run by private agencies. We hire agencies like the John Howard Society or the St. Leonard's Society, or the Elizabeth Fry Society to operate these. They are operating these agencies for us. We pay a certain amount on a per diem basis to them. It is around $20 a day. They are functioning extremely well. It comes within our institutions branch, or at least I should say our community branch, of our ministry.

Those are the ones who are incarcerated. The individuals who are not incarcerated, those on probation, fall within our community branch. Our probation and parole people—in concert often with local community volunteers and with co-ordinators of community service orders—work on the victim offender reconcilation programs to bring the people together.

The victim offender reconciliation program got its start, actually, in Kitchener. That was with the central Mennonite community, and it provided an excellent service for us. The central Mennonite people are providing a diversion program.

The last letter Jim read was from the citizens' dispute service in Ottawa. Honourable Mr. McMurtry has replied that he is is not prepared to support their diversion project, which calls for diversion after the charge has been laid; that's his big complaint. He feels that at that point the law should take its appropriate process without having a diversion occur prior to the trial, as the American examples have suggested.

The Kitchener one, operated by the central Mennonite community that Ed has mentioned, allows for diversion prior to a charge being laid, so when a family is reckoned to be in some difficulty, a little discussion is had by the police and the community. The police explain they are getting to the point where a charge is going to be laid in, say, a family squabble. They ask, "Will you now do something?", and off they go to do something.

That is a program that has yet to get fully underway. It is underway, but it is not fully measurable at the moment. I think that is going to produce some excellent results, if you can even call that diversion. I suppose "alternatives to charge" might be more appropriate, as opposed to a diversion after charge. That would distinguish the two programs: the one in Ottawa which Mr. McMurtry is not prepared to accept in his responsibility as the chief law officer and, on the other hand, the one in Kitchener, which avoids a charge prior to it being laid.

We are getting excellent service from some of these private agencies. Speaking with my Minister of Correctional Services hat on, we are just delighted with what is being provided.

Mrs. Campbell: How many of the 30-odd hundred persons have been deemed to have defrauded the government?

Hon. Mr. Walker: I don't know if I can tell you the answer to that question.

Mrs. Campbell: I think it leads back into Mr. Renwick's point.

Hon. Mr. Walker: I don't know if any of them are paying the government, so I would have to assume that none of them has defrauded government at the moment. It is worth looking at, and there is no reason they shouldn't be included under the same umbrella.

I was interested in Mr. Renwick's view on the question involving police and the Americanization of our police forces, as opposed to the old Peeler constable approach that was originally established in England.

I don't know if there is an answer to that. I just don't know. I have often thought it is unfortunate our police have pistols on them; perhaps it would be better if we were similar to the British example, where they have none. On the other hand, we now have them, so the transition period, if it ever happened, would probably be a very difficult thing. I'm not

sure we would ever be able to go back to that kind of situation.

I do wonder at times if there is not an argument to be made for some police not having sidearms.

[5:15]

Mrs. Campbell: That was debated at Metro some years ago. I think the problem, in trying to go back was the fact that we have a border here that is very easily crossed. It is a little different from Great Britain in that respect. You have the type of criminal element in the United States that can spill over here. It is very difficult although, as one who hates guns with a great hatred, I would like to see it happen. I don't think we can leave our police totally without some form of defence in these cases.

Mr. Renwick: I wasn't proposing that at all. If one wants a model, look at the English-Scottish-Welsh system. It could also include a look at the Roval Ulster Constabulary, which is a very highly regarded police force operating under extreme difficulty in a situation which is based fundamentally on the English tradition and not on the American tradition.

Mrs. Campbell: That's true.

Hon. Mr. Walker: In the jails of Ontario, of course, no guns are carried. No guns exist. We think that is a good thing. That has avoided a lot of situations that might otherwise have been very difficult and—

Mr. Chairman: And a lot of accidents.

Hon. Mr. Walker: Yes, a lot of accidents. I think there has been only one situation in Ontario's jails in the past 10 years, with which I am familiar, where a gun has been used. That was in the Ottawa case where the building was broken into—in effect the jail was broken into. If you can imagine that, the windows were busted and someone actually came in carrying a shotgun underneath a heavy coat. That is the only case where guns have been used in the entire Ontario system, to my knowledge. Don, your experience goes back far further than that.

Mr. Sinclair: Guns were used in the system at one time, and were abolished in, I think, either 1947 or 1949, when the correctional officer at Guelph shot an inmate who was escaping. As a result of the inquiry about that shooting, guns were kept in the institution, but were under lock and key and could only be issued in the event of a riot, and then only with the approval of the deputy at that time. Gradually, as time has gone by, there is hardly that amount of provision now in most institutions.

We have contrasted this with a situation at times—admittedly a very different one, it's not a true parallel—with the penitentiary system where guns still are used. Many of the inmates we have had in our institutions who have been there after having served a long term in a penitentiary will tell you, as you get to know them, that one of the great things that they bless about the local system is that there are no guns around. They say, and there is a good deal of evidence to support this, it is the very presence of guns that makes the situation an explosive one.

May I just say a word about the Americans? Although I am all in favour of the British police, America is a fine country, and here and there some very interesting things happen. I think one of the most interesting things that has happened in the whole world of policing for many years has been the experiment in Menlo Park, California, due to a very, very sharp police chief called Victor Cyzankis, who got all his policemen out of uniform, and who abolished the title "detective". Every policeman was his own detective—the men wore blazers and slacks, and ties and shirts, and only to that extent were they distinguishable from everyone else. It was not very long, after a great deal of derision directed at the force by other nearby forces who said this would never work, that the thing became accepted. It didn't take long. It took about two years for the thing to become really accepted and after that it was very, very plain sailing. It was interesting to spend time in Menlo Park and see the relationship between the police and the community. It was a very close relationship indeed. You got everybody in supermarkets, stores and bars talking about the police in a very different kind of way to what you often get elsewhere. Cyzankis has since moved on to Stamford, Connecticut. I think he is trying to get the same kind of thing in operation there. In passing I would say the US now and again produce some good ideas.

Mrs. Campbell: That interests me because we've had the concept of the community cop for a long time. I find in my experience that the community accepts them and they're very much a part of the community operations. They take part in the festivals every year and so on. It seems to be their fellow police officers who look down upon them. I wonder why you can't move somewhat in the direction of getting them accepted by the force. I have never yet had a complaint against the community cop. If you go into the community, they're welcome

to everything that's going on and dearly loved by the people in that area.

Hon. Mr. Walker: There is a growing move in Ontario within police forces to get the policeman out of the car and back into the community. For the last 25 years the thing to do has been to drive the car. What do you see when you're driving a car up and down a street in Toronto or in my own community of London? You don't see anything unless it happens to be taking place on the street. You certainly don't see anything down the alleys and you don't stop to meet the people. All this is changing more and more. It is happening very heavily in London and I gather there's a fair amount of it developing now in Toronto.

Mrs. Campbell: I wouldn't see it as developing. In my view whenever there are cutbacks in the police force in Metropolitan Toronto, the two cutbacks that come almost automatically are in the community cop area and in the youth bureau. I think these are the two areas where you really must have the kind of human understanding that is essential in a city as complex as ours. But that's where the cuts are made. However, it's not developing here now, although it has been here—I guess the youth bureau started in Toronto—at least that concept I'm sure started here. It was almost the first in the world.

It was like the pre-trial counselling we started and gave up because the Attorney General's ministry didn't have enough money to continue it. Now we lag behind everybody else. But those two concepts are always in a somewhat precarious position because of financial restrictions. I don't understand it because their success rate—and I don't have statistics again—but I would think from the way in which the community views them they have succeeded.

Hon. Mr. Walker: In London in 1974 or 1975 they all went over to the personal radio systems, so all the police carry these Motorola units and a microphone up near their chins. With the advent of those they've been able to get the people out of the cars and on to the street. Walking the beat is now a very popular thing and very much encouraged by the London police commission. I think the results are very impressive.

Interestingly enough, in Japan they operate their police forces in a different way. We have in Toronto the various divisions of 55 and 52 which are large police stations but which are scattered throughout the city. In Japan they have very tiny places, like two-man stops. I got the impression they were nothing more than kiosks, and that was the police station. There was a kiosk around the corner. If you looked for enough, you could see, in the distance, the next kiosk where there were some more policemen who worked in and out of that location. Their job was to call twice a year on every single person within their precinct, whatever that precinct would be; I would gather it would be 20 or 30 square blocks in area.

Mr. Sinclair: The Americans call it block policing. The person who was the pioneer in this was the one Mrs. Campbell mentioned in her article on controlling police conduct, Jerry Wilson. He at one time was the chief of police in Washington and now teaches at the American University. He was one of the pioneers in block policing which has been picked up in many cities in the US. In the case of Menlo Park, the community I mentioned earlier, it was the rule there that the policeman had to actually reside in the area he was responsible for.

Mrs. Campbell: It always seems to me that in some of the domestic cases which turned into stark tragedy, in the last year or so, the community cop was well aware of the families that were under pressure and so on. They might, indeed, have been able to move in to cool out a situation rather than—and I know that some of the police don't agree with me—call in the people with guns to surround the subject. I've never thought that calling in a group to surround a house in a domestic dispute made any kind of sense at all, unless it was a case of protection of an individual's life or limb.

I think we've started a lot of very good things in Metropolitan Toronto but we seem to be losing the initiative in a way that makes me very unhappy.

Hon. Mr. Walker: The Attorney General has funded three pilot projects in Ontario—one in Hamilton, one in Kingston, and one in Peterborough—where when the police are confronted with a family squabble of substance, they call upon individuals from within a social agency to move in immediately to try to defuse it. London, Ontario, now has this very same thing.

Mrs. Campbell: I know.

Hon. Mr. Walker: We're very impressed with it there. I don't think the London city police have so much as fired a shot in the last three or four years. And they have funded it themselves, by the way. They consider it very much part of their current operating funds and duties to provide this kind of agency.

They send in a psychologist or whoever it might be on the crisis team, at the right

moment. This has defused countless incidents that could have mushroomed into very unfortunate situations.

I commend that London operation to any other community in Ontario.

Mrs. Campbell: I have looked at it. I have some concerns about how it would function in so far-flung an area as Metropolitan Toronto. I would certainly, at least, wish that we could bring something to bear. I think the community-cop concept for Metro Toronto may be better, if we can enlarge that force. Their problem is not just Metro Council and funding and the rest of it, but the police priority that goes to Metro Council. So you have a long way to go to get that point across without some discussion by the justice group present here. I urge that some discussion be initiated there to get the community-cop concept improved.

[5:30]

We also have in my riding—I don't know how many there are in Toronto even—the officer on the beat. We do have uniformed officers on the beat and the community cop. I think you need to give consideration to having discussions with Metro Council and the commission—if it's useful—and anyone else, to see if we can't broaden our sights. Knowing the complexities and the problems from the other side, by trying to involve the children's aid in problems in Toronto—again the agencies are spread so very thin here—I think it would be more quickly useful if we expanded the role of the community cop and juvenile youth bureaus to give us that kind of operation here. I don't dismiss the other; I've just tried to envisage a solution from what I know of these agencies' problems in the juvenile field. I feel that model might not be as valuable here as the other model.

Hon. Mr. Walker: There is no doubt the whole concept of community cops as you call them—

Mrs. Campbell: I call them that affectionately—community cops.

Hon. Mr. Walker: Yes, I think it's a superb concept. I can speak with some authority from my own knowledge of my own city, and I can only hope that will become a model—maybe not exactly the same—for other communities.

The principle of community policemen is undoubtedly right, and it works. It's getting to the true grass roots of the situation. It's not unlike politics; if you can keep a certain knowledge of the grass roots, you're in a much better situation. The same thing applies to policemen who know their people—who know the bad ringers within their community, the people who are susceptible to problems, and who will give them backup support when they need it.

Mrs. Campbell: Perhaps it's that concept that Mr. Renwick was looking at. Perhaps part of what he sees as Americanization is the fact that your police forces have tended to be operating in a much wider area than they originally did. Perhaps it's something to look at. Certainly the expertise they gain by being a Metro force, for example, is probably necessary, but within that concept some breakdown might be very useful.

Hon. Mr. Walker: I think that probably leads us conveniently into the role of the RCMP in Ontario. You asked if there was an original contract. I can't give you a precise answer. My understanding is that they are in Ontario—as they are in other provinces—to spend their time concerned with matters that related to federal jurisdiction: national revenue, food and drug act, that kind of thing. I gather we have operating here in Toronto and in other parts of Ontario squads involved with narcotics, white-collar crime, international crime, organized crime, smuggling and revenue.

The Solicitor General has expressed a great deal of alarm about the intrusion of those forces into what might properly be considered a provincial domain, and that has been the subject of more than one discussion between the Solicitor General and his federal counterparts. As recently as the federal-provincial conference in Ottawa, that issue was of paramount consideration. It was argued, not just by Ontario, but by other provinces as well who felt even greater problems. In some of the other provinces, such as British Columbia and Alberta, where they have no provincial police force—there are only two provincial forces in Canada, in Ontario and Quebec—they have had some real problems of responsibility. The Royal Canadian Mounted Police were not truly responsible to the Solicitor General of Alberta or the Attorney General of British Columbia. In fact, they were responsible to their authority in Ottawa and as we've seen even that at times has suffered a bit.

That issue is probably the most significant problem being dealt with at the moment between Ottawa and Ontario as it relates to general policing problems, the whole question of intrusion into the provincial responsibilities. My suspicion is that we're going to see that defined before too long. There seems to be some indication and some will-

ingness on the part of the federal government to attempt to resolve the continuous bickering on the issue, and I gather, resolve it in a way that the provinces would find quite favourable and supportive. That's a current update on it. I don't know that it tells you very much.

Mr. Renwick: Part of the responsibility for the state it's in rests with the province. We attempted over a period of time to get some sort of delineation and definition of what the position was but we were always informed that everything was just fine. Of course it turned out that everything isn't just fine. That's not from the point of view of claiming who was right or who was wrong, but it usually is a sloppiness in delineation of function which leads to some form of serious problem.

There is another aspect of it which doesn't happen in the United States—I shouldn't say it doesn't happen but when it does happen it's unconstitutional—is that whole use of writs of extent by the RCMP. One of the bill of rights, in the first amendment, prohibits this in the US for the very same reason they are prohibited here now. The problem here is, all you have to do is to team up one RCMP officer with a Metro police officer and they can go anywhere, anytime. The writ once issued is good forever. You just walk around with it in your pocket and use it wherever you want to go. They have this sort of court procedure which is supposed to give some aura of sanction to it. The court on the last reference was very careful to point out that if their role was a mandatory one they had no control over the issue of them at all.

I assume, Mr. Chairman, that the secretary is aware of them. If he is not aware of them, that's exactly what they are. I could be an RCMP officer who was issued a writ 20 years ago which still allows me to go anywhere.

I thought I had an ironclad case to prove in court. They walked in and dismantled the home of a Greek constituent of mine one time on the grounds that he was making booze in his cellar. Unfortunately, I couldn't prove he wasn't so I didn't have the pure case. But that is what they did, they walked in, on a writ of extent. He wasn't engaged in any excise offence or anything else. He was distilling in his basement. They dismantled his house, and it was on a writ of extent.

I have always objected to that, as a secondary issue with respect to the RCMP, who I believe are the only officers who carry those all-purpose warrants around with them.

It is a very frightening price. In the United States, as I say, part of the first amendment was unlawful seizure, or whatever it is, something that prohibits police from using that kind of unspecified warrant.

The reverse, of course, is the point that Jim Foulds raised today on Mr. Justice Goodman's decision yesterday, that they quashed the search warrants on the basis of no reasonable grounds to believe they would find the evidence they were looking for.

Hon. Mr. Walker: I had some involvement myself that way during my salad days when I was practising law during my sabbatical from this institution. My partner became involved in a case like that, very unfortunate circumstances where an individual was beset by federal officers who burst into the apartment of this individual, who happened to be nude, stepping out of the shower. They burst in upon her and it was totally unnecessary. The support for the search warrant was tissue thin, just absolutely none.

The thing was fought for some significant distance and ultimately the federal Solicitor General apologized. That was the limit of it. They wouldn't quash the search warrant. That very search warrant was left open from then on. They wouldn't quash it.

Mr. Renwick: We have raised the issue a number of times and every Attorney General of his day has said, yes, he shared our concern about it, but nothing ever happens.

They team them. They team them with Metro police and it means the Metro police can go places they couldn't possibly ever go otherwise. That kind of thing verges on or is tinged with illegality in my view.

Hon. Mr. Walker: Rape crisis centres; have we reached that point?

Mrs. Campbell: We haven't, but go ahead with it. I think your deputy probably has some notes of what I wanted some clarification on, but do deal with rape crisis centres.

Hon. Mr. Walker: My notions are not fixed in regard to the rape crisis centres. It really didn't become a concern of mine until I got into this particular secretariat. In the process of attempting to learn most of the issues, it surfaced for the first time basically in September, when I got a letter from Ms. Sandra Sahli from Windsor. I did meet at the end of November with members of the Ontario Coalition of Rape Crisis Centres and I can appreciate many of the arguments, because there is good reason to believe that what they are doing, generally speaking, provides excellent service.

There are lots of issues that have been raised; a number of my colleagues raised questions about the amount of money. We are talking about 15 or 16 centres across Ontario and a sum of $15,000 for each centre. Where I have received some complaint is that the—

Mr. Renwick: That's about $225,000.

Hon. Mr. Walker: Yes, it's about one third of the secretariat budget, by the way, so it is a substantial amount of money in terms of our own secretariat—not so much when it is balanced against all of the expenditures of government, but substantial from our budgetary point of view.

[5:45]

The $15,000 would go to pay for a co-ordinator and the co-ordinator would not dispense service. That would still be provided by volunteers. The co-ordinator's job would be community education, community contact and that type of thing. Some people have raised the issue that the money should be spent for the delivery of the service as opposed to superimposing some kind of executive director system, or whatever on to it.

There are some legitimate issues that have been raised recently and undoubtedly have to be mentioned.

Mr. Renwick: That is hardly a significant additional amount of money though.

Hon. Mr. Walker: This is what the $15,000 would be spent for.

Mr. Renwick: No, I meant to finance the actual delivery of the service would mean a staff at each of the centres and would be a significant additional amount of dollars. I was putting it on the low basis; the $225,000 at $15,000 each is sort of the minimum. You have to have somebody who is in place, who can organize those who will provide the extended service.

Mrs. Campbell: Haven't you really used their module in your pilot project in Peel. What have you paid that co-ordinator?

Hon. Mr. Walker: I think that co-ordinator is probably paid $20,000.

Mrs. Campbell: Then my information that it is $40,000 would be incorrect?

Hon. Mr. Walker: It is a $60,000 project, so I think that would be $20,000 for the co-ordinator.

Mrs. Campbell: So that co-ordinator at $20,000 is more important in your mind than the co-ordinators for rape crisis centres at $15,000. Let's look at what you are saying.

Hon. Mr. Walker: No, I am raising questions. I am not giving you my biases. I am not foreclosing any area of thought. I remain unconvinced either way on the issues, because frankly, having been presented with the issues at the end of November, having been involved in some of the incidents in the past week, I haven't addressed my mind to the whole issue, other than to say it is under consideration and we will agree to give an answer. I am just saying there are some questions raised, and some of the questions relate to the cost.

If it is $15,000 now, where will it go in the future? That is a consideration. If it is 15 or 16 centres today—and the proposal indicates that the centres would be funded in Cornwall, Guelph, Hamilton, Kenora, Kingston, Kitchener, Niagara, North Bay, Oshawa, Ottawa, Peterborough, Sault Ste. Marie, Thunder Bay, Toronto and Windsor—if rape crisis centres are appropriate for those centres, can one say they are not appropriate for other centres in Ontario?

Mrs. Campbell: No, you cannot.

Hon. Mr. Walker: There must be other places where the incidence of this type of thing suggests that one should be provided.

We have those considerations as well. It is not just a quarter million dollars, and not just probably 15 centres, but probably more centres and probably more than $15,000 each so when we look at it it is not just a simple experiment of a quarter million dollars.

Mrs. Campbell: When you started this project in Peel, were you afraid that maybe it would be successful and maybe you would have to take it into other centres and maybe you would have to spend $60,000 in those other centres? That didn't deter you.

Hon. Mr. Walker: That certainly didn't deter us from the experiment. There is no question about that.

Mrs. Campbell: No, but here is something that is proven. Quite frankly, one of the major problems they have to face is what my colleague, who is male—and this is not sexist from my point of view; there aren't any members of our caucus other than myself who are not—says is a difficulty they have, that males respond only to statistical evidence. If males respond only to statistical evidence somebody has to be able to gather the statistical evidence to make the case for somebody who doesn't understand it other than on the basis of statistics.

You cannot operate a voluntary agency completely, utterly and only with volunteers. You must have a minimum of one person who has a basic responsibility, quite apart from a voluntary commitment. Why you

always expect that, as I pointed out earlier, if it's something women are working at they can operate on nothing, while their opposite numbers in another project or another agency must have a respectable salary, a respectable budget, is beyond me to understand. I accept the fact that women are mighty in their functioning in these areas, but truly, very few of them are magicians.

I have to put it at its strongest. If you have a commitment to the victim you cannot repay these victims by some financial contribution from anybody. You cannot begin to understand. As Mr. Renwick put it, if you start with the obscene telephone call and what it does to you, particularly when it's a very explicit call, and you go through the range, it is intolerable.

In fact, it is immoral for us to permit this in our society and walk by on the other side of the street. It is immoral, in my opinion, unless the secretariat itself accepts the social aspect that none of these things happens to a good woman, which is what they face. They face it at every single level. I don't suppose there are too many women who haven't had some experience with some aspects leading up to rape.

I don't imagine that, if you talk to people, there are too many who haven't experienced one of the obscenities. You cannot condition a person who is in that kind of traumatic condition. You've got to make them understand that they are people, that they are not at fault, they are not guilty. You don't have to do that in too many other offences.

Somebody who has been shot doesn't have a sense of guilt, as a rule, as I see it. You have to lead someone who's been attacked in this way, by the hand in many cases, not in all, to take them back to a position of accepting their own worth.

They are also now engaged in the very real problems of the juvenile in this position. Nobody else is concerned. Nobody else is really attacking it, but when you see a child or a young person who has been raped you begin to understand a little bit of what happens. I can't put it too strongly. It is almost a complete change of identity as a human being because they are so humiliated, so embarrassed, so completely revolted by all of this, that they really haven't any sense of self-worth.

You don't want to assist those who begin to bring back to those persons the belief that yes, they are still human beings, acceptable human beings in our society and that they do indeed have a worth which we give them?

Hon. Mr. Walker: Don't accuse me of any particular position at the moment—

Mrs. Campbell: Oh, goodness gracious, I'm not making a personal attack. You, in this aspect, represent your government. Most of the people say they don't wish it on anybody else, but perhaps if the wife or daughter of somebody in government went through what I went through it wouldn't take so long to get some help. That's not a very good thing for them to feel. It really isn't.

Mr. Renwick: If we spent a little time on a program which, obviously, is close to the minister's heart—that is, compensation for the innocent victims of crime—perhaps it's not too much of a stretch of the analogy to say that the funding of these centres would be, in a sense, an extension of that program.

Hon. Mr. Walker: I don't have any difficulty getting to the principle.

Mrs. Campbell: It's the interest that we have problems with.

Mr. Renwick: I don't think you need to think of it in some sort of rigid framework; that all of these are isolated. There is already across the province an expanding net of community facilities. In my riding it happened after a long time, true, but we now have the South Riverdale Community Health Centre and the Riverdale Socio-Legal Services. I'm not certain if a rape crisis centre needs a specific facility, but presumably there would be a way in which either of those bodies could well use a person with skills and abilities in that area.

They could cover the Riverdale area, the area east of the Don River in Metro and up to the city limits and out to the Scarborough boundary, for example, and would be able to co-ordinate the voluntary response with no additional overhead with respect to rent and accommodation and all of those things. There are quite a few legal aid clinics, community health centres and other facilities in the area. I don't think you have to feel that each one of them is a separately fundable body.

I reiterate what I said: if the government of Ontario was to say to these organizations, "All right, for three years we will fund you $15,000," they could go with stability to other organizations, particularly if they had a letter from the government, enclosing the cheque, it would be an open sesame to some additional funds from other sources. But the instability surrounding them is making that extremely difficult for them.

Hon. Mr. Walker: That certainly is one of the issues; where should funding be? Should it be community based? Should it be the United Appeal type of thing?

Mr. Renwick: I think the government has to provide firm stability for the initial part of it and I don't think you should be frightened about how many times that's going to happen.

[6:00]

I would guess whatever the foundation is that collects all the interest off Margaret Campbell's trust moneys it is worth a hell of a lot of money now. Presumably that foundation is available for X dollars.

As I say, it would provide a basis on which this coalition could perhaps organize or assist the local units to go out and raise money in their own communities if they knew there was that sort of ground amount of money, that key-in-money, which is required. I don't think I can add anything more except to say that I hope I've expressed to you my deep concern that it would be tragic if this were to be passed up.

Mrs. Campbell: The other thing I would like to address to the provincial secretary following that is, in some cases the fact that the government has not been prepared to give this funding has been a reason given by the United Appeal and other agencies for refusing funding. So it's great to sit and say, "Maybe they should be funded by United Appeal."

I remember going through all of this with what was then called the Indian Centre in Toronto, this business of trying to get the federal government, the provincial government and the Metro government to provide funding. Each of them was waiting for the other to make a commitment before it would give funds. You had to break through one of them in order to get funding from the other two who were ready to fund if you could make the breakthrough. It's insane, totally insane, to fund on that basis.

Hon. Mr. Walker: I appreciate having your views on that. I know there is a sincerity in your views. To tell you honestly, I have not made up my mind on it. Indeed, I haven't talked to my colleagues on it, which is something that must be done in the not-too-distant future.

Mrs. Campbell: Yes, if you're going to reply by January 15.

Hon. Mr. Walker: Yes. We've agreed, because of the coalition convention being held in Hamilton on January 18, that we will schedule a meeting with the coalition in the week prior to January 18 and share our views with them at that time. So I appreciate the sincerity and the conviction with which you put forward your arguments.

Mrs. Campbell: Before we finish, I wonder if tomorrow you might answer my concerns on the law of standing and also on the question of the exclusionary matters to which I've referred. I think they have some importance and I'm sorry I didn't prevail upon you sufficiently for you to give them your attention today.

Mr. Renwick: Mr. Chairman, unfortunately, when I made an appointment some months ago, I didn't realize tomorrow would be another one of these sessions, so I'm going to be away and I probably won't be back here until 4:45 p.m. or so. I'm going to ask Pat Lawlor or one of my other colleagues to sit in while I'm away.

Mr. Chairman: We have approximately two hours left in these estimates.

Mr. Renwick: I'll speak with Pat Lawlor and see if he can attend. I would have liked to see the slides, but I guess it's most likely I will miss them. If you start at three, by the time I get back you'll probably be finishing.

Mr. Sinclair: Perhaps at another time, if you have sufficient interest, we'd love to give you a private showing.

Mr. Renwick: Thank you.

The committee adjourned at 6:05 p.m.

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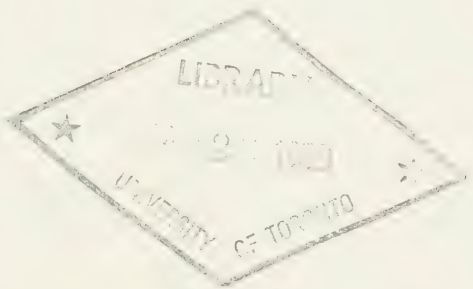
Ontario

No. J-32

Legislature of Ontario Debates

Official Report (Hansard)

Administration of Justice Committee
Estimates, Provincial Secretariat for Justice



Third Session, 31st Parliament
Thursday, December 13, 1979

Speaker: Honourable John E. Stokes
Clerk: Roderick Lewis, QC

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Editor of Debates: Peter Brannan.
Published by the Legislature of the Province of Ontario.

LEGISLATURE OF ONTARIO

The committee met at 3:53 p.m. in room 151.

ESTIMATES, PROVINCIAL SECRETARIAT FOR JUSTICE
(concluded)

On vote 1301, justice policy program:

Mr. Chairman: I recognize a quorum. The minister wants to respond to one last question, then I believe Mr. Stong has a couple of questions.

Hon. Mr. Walker: I am sorry I'm late, Mr. Chairman. I was staying up for the vote on the emergency debate that I gather we are going to have shortly so we may be disappearing in a matter of moments.

Mr. Chairman: Maybe you can answer one question before we disappear, since I would like to somehow get through your estimates today—both for your sake, your staff's sake and my own sake.

Hon. Mr. Walker: Yes, we will support that. I had an answer to Mrs. Campbell's question yesterday about standing, and it might be more appropriate for me to await her arrival.

Mr. Stong: I don't think she will be here.

Mr. Chairman: My understanding is she will be here later. She said that if she was able to make it, it might be fairly late in the estimates today and gave the committee her apologies.

Hon. Mr. Walker: Let me leave the answer until she arrives. If she doesn't arrive I will convey it to her directly. Or we can do it at the end.

Mr. Chairman: Fine. Mr. Stong.

Mr. Stong: Thank you very much, Mr. Chairman. I apologize for not being here yesterday and am indebted to my colleague, Mrs. Campbell, for filling in for me.

There are three or four areas I would like to ask the minister about. In so far as his ministry is responsible for the development and co-ordination of justice policy, I would like to ask him his own impressions and perhaps his own opinion in what he carries into any discussions with regard to development of justice policy.

One of the areas I am concerned about deals with the youth—I have asked a question in the House on this and I would like to get the minister's response—and making our young people more aware of the detriment involved in acquiring a criminal record. Whether it be under charges under the Criminal Code or charges under the narcotic acts, or whatever, they do not realize how they jeopardize their future. They do not realize how they jeopardize their job opportunities, their professional opportunities, their travelling opportunities, their visa requirements.

One of the experiments going on now in Brandon, Manitoba, is the junior jury system. The junior jury system basically is a panel of peers that a judge will consult after he has convicted a young offender. The principle is very easy, but the effects are extremely advantageous and beneficial to our young people

First off, when a judge has convicted a young offender, before he sentences that offender—he is in complete charge at all times—he does consult a panel of jurors consisting of 12 young people who are involved in discussing with him and giving him input respecting any terms of probation that may be imposed. Not only does it make young people aware of the repercussions of acquiring a criminal record, but they also take a very active part in the actual administration of justice. They are actively involved in the sentencing, if you will, of one of their peers.

This experiment has been tried in the United States. It is presently going on in Brandon, Manitoba, and I think it would be very worthwhile for this province and your ministry to sell that idea among the justice ministers and to implement it as soon as possible involving our schools, involving the boards of education, and the judiciary, as well as the crown attorneys and law enforcement officers.

Its benefits far outweigh any disadvantages and I strongly urge that upon you, and I ask you for your own impressions or ideas on that idea.

Hon. Mr. Walker: I like the idea. I think it is an innovative approach and I have heard something of this before. I must say that I don't have a great deal of information on it and I would appreciate receiving from

you, if it is possible, any information you have that relates to it.

I can assure you it will form part of our discussions in our policy field. You have asked how I involve myself with the policy field and I indicated yesterday that I treat myself as a co-ordinator of policy matters and not as a supervisor of an individual ministry.

I have my responsibilities in corrections and take those lines of responsibilities directly, but with respect to the other ministers within the field I do not treat myself as in a supervisory position. I treat myself as the co-ordinator of matters that tend to cross the various ministries within that field.

This is an area that I think we might well discuss—just how we might be able to bring to the attention of young people the importance of the Criminal Code. In fact, as a secretariat, we are prepared to put out a publication that would indicate to a young person the degree to which his life may be jeopardized, or at least his future may be jeopardized, by reason of having a criminal record. That is certainly something that falls within our secretariat and I appreciate the recommendation. In the process of the few moments that I have now thought about it, I would think it would be relatively easy for us to put out such a publication. I think we can give you an indication that that will likely be the case.

Now, the next question is how widely that publication is received. We have varying degrees of receptivity for a number of our publications. Some are very widely received; others are not well received. But we will try and do it up as best we can and put something out in the proportions required for the province.

Mr. Stong: I appreciate that. I hear that bell ringing now, Mr. Chairman.

Mr. Chairman: Oh, is it ringing?

Mr. Stong: I don't know whether we have to leave or not.

Mr. Chairman: I think we had better. Excuse me. We will have a short recess in order to vote. How long is the bell going to ring?

Clerk of the Committee: Unlimited, it is at the Speaker's will, because of the emergency. [4:00]

Hon. Mr. Walker: It's an unlimited bell? Why don't we stay here and have someone come and notify us? The whips can come and notify us.

Mr. Chairman: Thank you.

Mr. Stong: I appreciate the minister's response and his interest in the idea. It certainly isn't a novel idea, but I have read about it and I think it is a tremendous idea.

One aspect of your answer does disturb me, perhaps, as I understand the justice policy field—and I don't know how you perceive it, but I am learning a little bit more about how you perceive it. The program description in the estimates about the justice policy field on page J8 reads as follows: "This cabinet committee, chaired by the Provincial Secretary for Justice, is responsible for the development and co-ordination of policy recommendations . . ." The development of policy recommendations. I am wondering if you perceive your role then basically as a role of introducing policy to the other ministries, or are you just responding to other ministries?

I am concerned. There are a couple of other areas I want to discuss and I just wanted to get your attitude to your own ministry and particularly to that statement.

Hon. Mr. Walker: I treat my role as not being one of reacting to what is generated from within each ministry and what might bubble up to the committee level for discussion, but rather one of, yes, being involved in that aspect, but also being involved in initiating discussions that I see crossing fields.

For instance, a young offenders question tends to cross over into corrections, obviously, if the age of juvenile delinquency rises to 18. That has immense impact across the Ministry of Correctional Services. They would likely have to build a dozen new institutions to house the young people and separate them from the adult population.

That crosses that ministry, but it also crosses the area of the Attorney General and, to a certain extent, the Solicitor General, so consequently I have taken steps to ensure that this has become a policy discussion. Indeed, it was this morning.

We have a normal Thursday meeting in the justice policy field and this very morning we talked about the whole question of young offenders and the proposal to alter the approach taken by the federal government in respect to young offenders. Our response is being generated now and the initiative for that has come from within our secretariat. We had generated it so we take both an initiating approach and a reacting approach.

For instance, a minister comes to us and says, "I have this piece of legislation that I would like to have brought on." That is then brought on and is discussed in a normal way; so it gets on the agenda from a minister putting it on. The agenda is fairly closely kept, in terms of its authors. It is not author-

ed from within ministries; by and large it is authored by the ministers themselves and the provincial secretary.

Mr. Stong: How do you perceive your role with regard to the integrity of the administration of justice and that whole area in government?

For instance, your relationship vis-à-vis the Attorney General; vis-à-vis the Solicitor General; vis-à-vis the Minister of Correctional Services; and the Minister of Consumer and Commercial Relations. What is your relationship with them? You tell me.

Hon. Mr. Walker: I am certainly not their supervisor. I treat myself as being the co-ordinating force for the purposes of the weekly meetings we hold.

Virtually everything that goes through any one of the ministries in the justice field to cabinet must come first of all to the justice policy field, so we all consider it. Cabinet will only consider those matters, except for emergency matters, that have been flowed through the justice policy field.

I do not treat myself as being a person in charge of the other ministers. That is their responsibility. They operate and dance to their own music and that is the only way I think we can coexist. I run my Ministry of Correctional Services, they run their ministries of Consumer Relations or Solicitor General, or Attorney General. They are fully responsible for whatever happens within them.

On the other hand, we act as a field for like-minded thoughts, so to speak, or at least justice-minded thoughts. We then generate recommendations that go to the executive council and there, by and large, they are going to be accepted unless there is a significant amount of rejection by other ministers.

Mr. Stong: I wonder if you could share with us your personal attitude or approach, as a minister, and as a minister who is responsible for the development of policy recommendation and the co-ordination of those recommendations. I am more interested in the development of recommendations. What is your attitude with respect to the administration of justice and what is perceived to be the administration of justice? These would be the separation of the Solicitor General and the Attorney General's ministries.

Do you, in fact, take into account such things as, most recently, in what seems to be a policy that is going to be developed by your government, the roadside breathalyser test, where a policy officer is going to have the authority to lift the licence of a driver for 24 hours? What is your personal approach to that problem, when the same minister wears two hats; when he must defend the individual driver vis-à-vis his rights and also represent the police officer, into whose hands he is trying to give more power—namely, to lift a licence on the basis of 0.5 milligrams of alcohol in 100 millilitres of blood? What is your personal attitude towards the conflict that is apparent not only to me as a lawyer, but surely to you as a lawyer, and obviously the people on the street? What is your attitude as a minister?

Hon. Mr. Walker: We spent quite a bit of time yesterday on the question raised by Mrs. Campbell, relative to a perceived conflict of interest that she felt was there between the Solicitor General and the Attorney General. I had the feeling at the end of the discussion we were unable to determine any precise area of conflict.

The Attorney General (Mr. McMurtry) himself indicated there was no conflict between the two. When he was appointed to the job—and it was understood at the time he was not being appointed for a lengthy period or not forever and that the two jobs were not being merged—but when he took on the job he said if there were ever a conflict he would immediately make that conflict known to the Premier (Mr. Davis) and to the cabinet. Presumably there would be some steps taken to avert any appearance of conflict and of course avert any occurrence of conflict.

One would have to assume he has taken the right approach. I was able to mention at the time that I was quite impressed by and taken with the arguments of your justice critic in 1972, when the two jobs were merged—and I know you have been over this ground before. But both the justice critic of the Liberal Party and the justice critic of the NDP—indeed I see him here today—indicated that separating the police function from the Attorney General was not the right thing to do.

Mr. Roy and Mr. Lawlor both indicated that it was wrong at that time.

Mr. Lawlor: That was quoted back to us ad nauseam.

Hon. Mr. Walker: That is right. I can understand why. I mentioned those points—

Mr. Stong: That does not justify—

Hon. Mr. Walker: It doesn't justify it, it merely says that at that time it was perceived by your party and by the NDP that no conflict existed; in fact they were quite critical of government for separating the two. Now that is—

Mr. Stong: But we learn. As time goes on we learn.

Hon. Mr. Walker: And views change—

Mr. Stong: Do you know what Oscar Wilde said about consistency? It is the final repose of the unimaginative.

Hon. Mr. Walker: Yes.

Mr. Stong: Then let's carry on and grow.

Mr. Lawlor: It is the hobgoblin of little minds.

Hon. Mr. Walker: The short of all this is that I don't perceive a conflict there, and as I see it it is not my responsibility to be operative if there were a question of conflict. The whole question of any conflict at all is something that has to be resolved by the person who makes the appointment.

The Premier did not ask my opinion when he appointed Mr. McMurtry Solicitor General and I doubt that he would ask my opinion if he decided to alter the position of Solicitor General.

Mr. Lawlor: Don't you very often during the discussions in the policy field have to turn to Roy and say, "Which hat are you wearing? Are you representing the interests of so and so, or some other side of the fence?"

Hon. Mr. Walker: Never had to.

Mr. Lawlor: You've never had to do that?

Hon. Mr. Walker: It has never been a problem. We have always known precisely what it was. He has appeared to us as Solicitor General. He has appeared to us as Attorney General. Never have the two crossed over during my brief period of time of being more directly involved and in particular, in the last year having served on the field. We have always known a clear distinction. I have a certain amount of faith in him.

I have to realize, of course, that we were virtually the only province—no, Alberta has a separate Solicitor General—eight other provinces have merged Solicitor General and Attorney General. They do not seem to perceive a conflict. And some of those provinces are very substantial. We are talking about British Columbia and Quebec, substantially large provinces, and they merged the two. That is not to say it is right. All I am saying is other provinces in Canada have not found that it is that much of a problem.

Mr. Stong: I mentioned the breathalyser, perhaps I can mention another—

Mr. Chairman: I don't think you are going to mention it right now, we are going to call a short recess. Thank you.

The committee recessed at 4:12 p.m. for a vote in the House and resumed at 4:38 p.m.

On resumption:

Mr. Stong: Mr. Chairman, I guess we have to leave at 5:45 p.m. as well, so I will shorten things.

Mr. Chairman: I will bring it up perhaps when we have a few more members present, but I would like some agreement, if we could, to finish the estimates today.

Mr. Stong: Okay, I agree.

Mr. Chairman: There are two ways in which that agreement can be reached. One is that at 5:45 p.m. we can agree that even though there is additional time left in the estimates we will waive that time. That would make it very much easier on the chair, since I must be involved in the debate of the resources development committee that starts at 7 p.m. and I would like to have some dinner. If not that, there are other things to be considered. Other members of this committee are also involved in other debates at 7 p.m. because of the holding up of committees, so I leave that to your discretion.

Mr. Stong: Failing that, what is the alternative?

Mr. Chairman: Failing that, the alternative is that we will have to deal with it next Wednesday. We will bring everybody back for about 15 or 20 minutes.

Mr. Stong: I figure there were two hours and six minutes left. We can probably wrap them up.

I was questioning the minister with respect to what I perceive to be a conflict, and I can see a conflict myself, arising out of a situation involving special assistance that police officers need or are going to need, in coping with the high rate of crime, particularly white-collar crime. Aside from that I think police forces ought to be more interested in hiring professional people, such as accountants or architects for some types of crime—different professionals—on a full-time basis, reorganizing the value of a university education as a qualification for certain types of police work.

Aside from that, there is a problem that we read about in the paper, arising out of the case in Barrie where police officers used an affidavit that turned out to be a false affidavit. They were found gulity. The difficulty is caused—and I see the conflict here—when you have a crown attorney who is the representative of the Attorney General whose responsibility is to prosecute any infraction of the law and any Criminal Code offence, and

a specific section of the Criminal Code had been fractured in that case.

On the other hand, we have to recognize the fact that we cannot curtail our police forces and our law enforcement officers in their responsibility to investigate. Somewhere along the line there is going to have to be a recognition that either we give police officers more authority, thereby taking them out of the bounds of what we expect our ordinary citizen to observe, or we insist that they be prosecuted and prosecuted very stringently.

There is a conflict because police officers need assistance. What is your attitude? What kind of an attitude do you carry into a discussion along those lines as minister of development of justice?

Hon. Mr. Walker: As I indicated yesterday, a number of very legitimate questions have been raised by the public and the profession, if we can call it that, about the whole criminal justice field. The questions obviously relate to the very things you were mentioning and those are the matters arising out of the trial held in Barrie and, indeed, a lot of the matters involving the Royal Canadian Mounted Police. We're going to have to consider, I think, what will issue from the McDonald commission and what will issue, when everything is said and done, with respect to the Barrie matter. The Barrie matter is under appeal at the moment.

Those are issues that we in the field are certainly going to entertain at some point. All I can say at the moment is that it would appear to me the matters have been brought to a head and it will be up to governments—in the next couple of years, likely—to respond to what flows from that. The reason I mention the time limits is because I suspect the McDonald commission will not report for a bit of time yet and it will take a while for government to react to whatever the recommendations are.

There is no doubt that we in this province are going to be in some way affected by the McDonald commission. Indeed, the Attorney General has indicated some interest in being more involved in what's going on with respect to the McDonald commission. So with all of these issues coming to a head, I don't think there's any question but that we will be looking at them.

I don't think there are any quick or facile answers to it and I don't think you could expect me, as the co-ordinating secretary, to throw out speedy solutions to matters such as the affidavit. My suspicion tells me those are issues that are going to be subject to substantial debate by the public and elected people over the next period of time.

I think you would find a fair amount of support within every party for both sides of the issue. I suspect you will find a fair amount of support within the public for both sides of those issues. So it's something that we're going to be joining and entertaining in the next period of time and I don't think there's a fast answer to it.

Mr. Stong: I'm not suggesting there's a fast answer—

Hon. Mr. Walker: Or even a slow answer.

Mr. Stong: Usually there are slow answers. I am very intrigued by your use of the word react. I think that that's one of the problems with the present administration; it's reactionary rather than demonstrating a degree of leadership.

I ask you personally: you must have some feelings as a member, and as a member with specific responsibilities, with respect to the issue of curtailing police forces which are finding it more and more difficult to conduct any type of an investigation into certain types of crime and they are inhibited because of lack of qualifications, lack of professional ability—perhaps even because the minimal qualification is grade 10, for instance. Plus the fact of the rapid turnover. I am advised that 34 police officers have left the York regional police force since January 1979. That is a tremendous number of police officers quitting.

[4:45]

This is a profession. I'm not talking about specifics, I don't want to talk about the Barrie case, specifically. I am talking about a policy. What are your attitudes towards widening, or alleviating police officers from observing the laws as they are written for civilians? Do you have any opinion in that respect?

Hon. Mr. Walker: Certainly police officers do have a right, in some cases, to breach the law. We see that in respect to high-speed cases; obviously they are breaking the law there. There are other exclusions that I am sure more-learned people could delineate and what we are going to have to do, as a government, is determine where the exclusions should be. After all, the paramount interest surely has to be the public protection, and at the same time, balancing off the rights of the public to having inappropriate intrusions into their life.

I am not prepared to tell you what I think my answer will be after reviewing all the debate that will go on on these issues in the next year or two. I am basically reserving

the right to make a decision, until all the facts are in. I don't even think it is fair for me to ask you what your opinion is at the moment.

I don't think the debate is fully out on all these issues. We are going to be entertaining this matter for a number of years.

Mr. Stong: I know, but this problem has been with us for a long time and surely you have made some kind of determinations in your own mind that you would initially carry into the debate.

Hon. Mr. Walker: Would you expect me to fix my positions now, prior to hearing the debate, or wait until—

Mr. Stong: I would like to know the direction justice policy for Ontario is going to take, with you as minister.

Hon. Mr. Walker: You know that we are going to entertain the issues and we are going to arrive at conclusions. Now, the direction will be determined by the conclusion we arrive at. How can you ask us to prejudge issues that will be subject to substantial debate in the next period of time?

Mr. Stong: I know you are not prepared to make any commitment, or even prepared to indicate—

Hon. Mr. Walker: What gave you that impression? Is it something I said?

Mr. Stong: No, it is something you didn't say, but it was the use of the word reactionary. I realize that that is exactly how you arrive at your policy. You react to situations, rather than lead.

I have another issue. Do you want to ask a question on that?

Mr. Warner: I have a supplementary on that. Surely there is a difference between an opinion and reaching a conclusion. I would hope that the minister was open-minded and fair-minded enough to both render an opinion and go through the process of receiving information and then eventually reaching a conclusion. During that process he might alter his opinion.

Surely we should start from the basis of what is the policy? You are supposedly in charge of developing justice policy; that is what I understand from the book anyway.

Mrs. Campbell: That isn't what he said. He is a co-ordinator.

Mr. Warner: A co-ordinator. Isn't that nice?

Hon. Mr. Walker: A much humbler position.

Mr. Warner: Much humbler? I guess the Premier's changed his mind because we went through this a long while ago when the superministries were set up. As I understood it, the idea in the policy field was to co-ordinate and develop a policy for the entire field which might take in several ministries. In this case it takes in three, four, five ministries.

I would understand, or should understand I think, that there would be a policy developed with respect to justice and the dispensing of justice within Ontario. I would like to know what your position is. For example, what is your opinion about police breaking the law?

Hon. Mr. Walker: You want to hear my conclusions before I hear the debate.

Mr. Warner: No, I want your opinion.

Hon. Mr. Walker: I say to you that is not fair. In fact, I do not think you would impose that upon yourself.

Mr. Warner: Of course I would not.

Hon. Mr. Walker: You would not want to entertain all the debate on the matter.

Mr. Warner: Oh nonsense.

Hon. Mr. Walker: I can just picture the situation. If I were to take a position today that I might change on hearing the debate as it relates to the matters, particularly from some of the commission work being done now, then you might come back here and use the same argument on me as I used on your colleagues a few moments ago—that on the one hand you are supporting the amalgamation of the Solicitor General's department of years ago.

Mr. Warner: Don't get into that one because you are on thin ice.

Hon. Mr. Walker: Oh no, I am not on thin ice.

Mr. Warner: Yes, it is thin.

Hon. Mr. Walker: We have already been on to it, David.

Mr. Warner: Oh, no.

Hon. Mr. Walker: We were on to that earlier this afternoon and on to—

Mrs. Campbell: These red herrings that keep coming up are just silly.

Mr. Lawlor: You can give us a red herring but that doesn't let him off the hook.

Mr. Warner: Your crown attorney up there in Barrie has an opinion, but you do not. You are going to function without one.

Hon. Mr. Walker: No, I did not say I was going to function without one. I said I was going to entertain the debate and then I would arrive at conclusions. I think this is a fairly logical position to take.

Mr. Warner: But some of your crown attorneys have already developed their own conclusions and they are going to operate regardless of what you think, I guess.

Hon. Mr. Walker: If they had the right to pass law that would be a different situation, but they do not. We are in a position where we have to pass law. I think it would be foolish for us to take positions in some of these areas that obviously are going to be the subject of substantial debate and on which I think you are going to have substantial observations yourself. I would want to hear those, even.

Mr. Warner: It is pointless.

Mr. Stong: Yes, it is. It really is pointless.

Mr. Warner: Sorry.

Mr. Stong: Mr. Chairman, I do have a—

Hon. Mr. Walker: I share that view with you.

Mr. Warner: We won't get an opinion out of him right now.

Mr. Stong: It is pointless, because despite what is written in this book you have developed—

Hon. Mr. Walker: You have come to the right conclusion in relation to that matter.

Mr. Chairman: Mr. Stong.

Mr. Stong: Despite what is written in this book—that you develop and co-ordinate policy—you cannot even give us an idea of what your input is in this very important policy, or what your attitude is, or what kind of an experience you carry into the debate. You are not even willing to share that with us so we can be of assistance. After all, we are representatives of the people as well. When we cannot even get you to enter a debate on these issues, I think you not only fail us as members, you fail the government, you fail justice policy, and you fail the people out there.

Hon. Mr. Walker: And I think you will be part of the debate yourself.

Mr. Stong: I hope I will be. Another thing that I am interested in—

Mrs. Campbell: There is no point having funds allocated to a ministry that has this attitude to the public issues.

Mr. Stong: Another thing I am concerned about—I would like to debate it at length but it would have been useless. I'm concerned about the attitude of an independent judiciary, the attitude that prevails among judges out there, right now, that they are feeling their independence is being encroached upon. They are concerned about that, even to the point that they set up a special meeting with the cabinet and only one member was there. They were upset by the results of that meeting.

Hon. Mr. Walker: Wait a minute, I understand it was at their request that only one minister was there.

Mr. Stong: Yes, it was at their request. One minister was there and even he had to go to a wedding.

Hon. Mr. Walker: They might have been upset by the results, but—

Mr. Stong: It was prearranged. It was not just on the spur of the moment. They are concerned about that. They are concerned about the attitude that prevails.

Another aspect I would like to have discussed during these estimates was the Ontario Evidence Act and the outdated aspects of that act, but I can see now that your attitude towards your ministry is simply perhaps just to co-ordinate bills back and forth to each minister and saying, "Look, is there anything in this act that is being brought in by the Attorney General that interferes with your operation?" and you are speaking to Correctional Services.

I perceive your ministry to have a greater function than that simple co-ordination. However, I am kind of disappointed, quite frankly—

Mr. Warner: It says it right in the book.

Mr. Stong: I know, but he has disavowed the word "development." I am disappointed in that because, be that as it may, I can see your attitude.

There is one other thing I want to discuss. I know we want to get to some slides that I am interested in myself, but on this issue of vandalism, it is really increasing. Our schools are particularly vulnerable and I asked in the House some time ago about actions being adopted that would help to curtail vandalism. I have heard nothing back from that question. It was going to be looked into and that was it.

Mr. Kerr: What sort of action?

Mr. Stong: That in British Columbia for instance. I will tell you exactly the same thing I said in the House by way of question. In British Columbia they were having the same difficulty and they increased the deductible in their insurance plans to make it economical to hire security guards for night rounds in each school. In that way they were able to curtail the incidence of vandalism. What are you doing in terms of justice policy, and in terms of policy to curb that criminal action of vandalism? What is your ministry doing?

Hon. Mr. Walker: I can say that by merging for the moment the two ministries, Correctional Services and Justice—the two are somewhat interchangeable for this discussion—we discussed a bit of that yesterday. We are attempting to encourage a lot of victim justice—and when I say "victim" I mean the victim of vandalism.

Mrs. Campbell: With respect, I think he was asking about what you are doing in the prevention—

Mr. Stong: Preventive justice, you know.

Hon. Mr. Walker: We think this has a significant amount to do with preventive justice. We think requiring people who have been convicted of a crime of vandalism to actually participate in the cleanup or participate in restitution goes a long way to bring home the meaning of it not only to the individual who has been convicted but also to others from a deterrent point of view.

Mr. Stong: You are thinking of deterrence. You are operating on deterrence.

Hon. Mr. Walker: Deterrence is a preventive measure.

Mr. Stong: To some degree it is and to some degree it is not.

Hon. Mr. Walker: Yes, I accept what you are saying. You asked me what we are doing in a preventive way and that is one thing we are doing.

Mr. Stong: The Ontario Court of Appeal says, "Deterrence is the prime consideration in sentencing." Nobody is quarrelling with that, but we are trying to prevent crime and learn from other jurisdictions. I guess what you are really saying is that your administration is prepared to rely on deterrence as the prime method of prevention.

Hon. Mr. Walker: That is one approach. You asked me what my view was on it and I am sharing with you one view. In addition to that we obviously have to count on the best deterrent of all, and that is a properly-functioning police force which deters vandalism. One of the best deterrents I think in the whole system is the risk of being caught. That works extremely well in terms of prevention. The other aspect obviously has to be the treatment the courts would take with respect to an individual, and again this gets into the deterrence side of prevention.

Mr. Stong: You are not suggesting interfering with the judicial process in the courts? In other words, you are not saying that you have any authority over what kind of penalty the judge is going to mete out for a given case of vandalism? You are not suggesting that, are you?

Hon. Mr. Walker: No, I don't think you would expect me to suggest that. By the same token, from time to time we have encouraged judges to take positions. I have gone out and spoken to all of the judges in Ontario at their sentencing seminars and have suggested approaches that we offer in terms of corrections that might be of help to them and I am sure they have formed part of their sentencing patterns.

Mr. Stong: I take it that is more of an information seminar rather than, as you use the word, an "encouragement" seminar.

Hon. Mr. Walker: In addition to that, we have produced a booklet on vandalism which I think you have seen. Have you seen the booklet?

Mr. Stong: Yes.

Hon. Mr. Walker: Is there a copy around?

Mr. Stong: Lots of them.

Hon. Mr. Walker: 50,000 copies of that booklet have gone out to schools in Ontario.

Mr. Stong: I wonder if the kids have read it.

Mrs. Campbell: They can probably provide a brochure for you.

Hon. Mr. Walker: These of course are for teachers to instruct their classes. In addition to that, you will find in the estimates a portion of money that has been allocated for lottery funds.

Mr. Stong: For lottery?

Hon. Mr. Walker: A portion of lottery funds has been allocated to the Provincial Secretariat for Justice. Part of these funds are going to the Attorney General, the Solicitor General and the Ministry of Correctional Services. I understand it is the intention of the Attorney General to use some of these funds for a project aimed at reducing vandalism. That, I think, is a start in the right direction.

[5:00]

Mr. Stong: The time is wearing on. This program is going to take almost an hour so I have no more questions there.

Mr. Chairman: Any further questions from the committee?

Mrs. Campbell: Could I just get a qualification? I understand the shortness of time. I am a little puzzled as to what the minister's position is with reference to the two questions I asked. I gathered that one was being debated as I came in. I am not sure that that was the subject, the matter of standing. I would just like to know if I am to have an answer or not. I do not want to belabour it.

Hon. Mr. Walker: Mrs. Campbell has raised the issue concerning the law of standing in the province. She stated: "The Attorney General is also responsible for the public interest of this province. Yet over the past 20 years individuals or groups have been forced to resort to challenging the law of standing in order to establish their right to bring suits with respect to public interest before the courts." I understand that is the position you advanced.

She has suggested that the Attorney General "abolish the law of standing so that individuals or public interest groups may bring actions in their own names on behalf of the general public." Have I interpreted you incorrectly?

Mrs. Campbell: You certainly have. I am asking about the extension of the law of standing particularly in environmental issues.

Hon. Mr. Walker: Am I quoting you incorrectly?

Mrs. Campbell: You are, yes.

Hon. Mr. Walker: I was quoting from November 1 Hansard, page J-354.

Mrs. Campbell: Then I had better take it because it hasn't been brought to my attention. I certainly was never suggesting the abolition. I suggested that some people were opposed to an extension of the law of standing on the basis that the Attorney General is the watchdog for the interests of the people of the province. But if the Attorney General does not act—and I have not known him to act, particularly in an environmental issue—then I think somebody else has to have the right to act. I was asking your position on the law of standing with a view to the fact that the law reform commission started a review of it, I believe, in 1977 and I have not seen anything come of it.

Mr. Kerr: The Attorney General has acted about four or five times in the last two years on environmental issues.

Mrs. Campbell: He has?

Mr. Kerr: Yes.

Mrs. Campbell: He has initiated action?

Mr. Kerr: Yes.

Mrs. Campbell: Then that is what I asked to be understood.

Interjection.

Mrs. Campbell: I missed it too.

Mr. Kerr: Reed, Abitibi, Great Lakes—

Hon. Mr. Walker: I will not belabour the point. There is the—

Mrs. Campbell: I am sorry, I just—

Hon. Mr. Walker: I may have misread what you said there, but—

Mrs. Campbell: Maybe Hansard did, but I do not get the Hansard fast enough to bring it back to my attention and I did not read it. If it is in there it is wrong.

Hon. Mr. Walker: Mr. McMurtry has indicated that in his view rather than abolish the law it could perhaps be reformed to permit broader interest to be heard, to permit greater public access to the courts in appropriate cases to recognize a historic role of the Attorney General as a protector of the public interest and still to safeguard the courts from burdensome, vexatious and unfounded litigation. Mr. McMurtry indicated that in November. Now you have asked my opinion as provincial secretary.

I would support the legislation which would grant the public greater access to justice in appropriate cases. I am delighted really that the law reform commission is looking into the matter. It might be pointed out that public access to the courts has been broadening in recent years, even without specific legislation.

Historically, it has been the responsibility of the Attorney General to take action to restrain or seek damages for a public nuisance. If various members of the public had all suffered virtually the same damage and an individual could not establish specific damage to himself or herself, that is damage different in kind rather than degree suffered by the general public, that individual had to go to the Attorney General and request the AG as chief law officer of the crown to initiate an action in the courts.

A public nuisance has been defined as one that materially affects the reasonable comfort and convenience of a class of people, though it is not necessarily to establish that every member of the class has been injuriously affected as long as a representative cross section has been so affected. It is a nuisance which is so widespread in its range or so indiscriminate in its effect that it would not be reasonable to expect one person to take proceedings on his own responsibility to put a stop to that nuisance rather than the Attorney General acting on behalf of the community at large.

There were many reasons for refusing standing to individuals in such cases, the most important ones being prevention of multiplicity of actions and the difficulty of distributing damages equitably if the lawsuit were successful. Our Ontario rules of practice allow for representative actions but leave a great deal of discretion to the courts in supervising them. In recent years there have been a few cases in which the courts

have allowed individuals to bring actions to restrain what would traditionally have been thought of as a public nuisance where the relevant attorneys general had, for one reason or another, seen fit to take no action.

The Supreme Court of Canada has indicated that the courts possess an overriding discretion to consider the merits of an application even if the applicant can't establish status, but that this discretion will rarely be exercised unless there is a clear public interest. That is the Thorson case in 1972.

Thus while some legislative changes might, after further studies, be seen as beneficial, it appears that individuals seeking to remedy public nuisances are not being deprived of rights in appropriate cases in the meantime. It would appear that where, in common law and confirmed in the Ministry of the Attorney General Act, the Attorney General of this province has a specific responsibility in public nuisance cases, it would be improper for me to try to interfere with this discretion and exercise of that responsibility.

I will, on the other hand, be happy to indicate my private views to Mr. McMurtry on any particular matter, of course including the desirability of changes in the law of standing.

Mrs. Campbell: I very much appreciate that.

Mr. Chairman, I wonder since reference has been made to those cases where the Attorney General has intervened, could we have the list of those cases given to us. I wonder whether any of them had anything to do with, for example, Canada Metal or some of the other cases which have been of concern to a great many of us. I realized we had Dow Chemical years ago and it was not what I would call a very satisfactory intervention. But if there are others and I have missed them, I certainly wish to be corrected.

Mr. Chairman: It was satisfactory only to the lawyers.

Mrs. Campbell: I want it to be clear, I at no time suggested the abolition of the law of standing.

Hon. Mr. Walker: I am sorry. I just—

Mrs. Campbell: No. Hansard has quoted that and I had not caught it. That can happen around here.

Mr. Warner: You're kidding.

Hon. Mr. Walker: I would be pleased to move on. This display of what the future holds for us in the justice field I think you will find very interesting.

Can we turn off some lights and start the machine?

Mr. Chairman: Is it possible to move the screen back a little more so that some of us can see, including Mrs. Campbell and myself?

Hon. Mr. Walker: In my opening statement I made mention of the fact that recently much attention has been paid to the subject of the province's population trends and in particular to the impact that an ageing population may have on the range and nature of services which the government provides. We are especially concerned with the effect this and related factors may have upon our system of justice and in particular with criminal justice. How much crime will there be and what will be the character of crime in the 1980s and 1990s?

The major problem is that crime is not reducing to a straightforward actuarial formula, with population structure as its chief component. While we know, for example, that all children in Ontario will pass through primary and secondary schools and can adjust for decreasing enrolments, we have no accurate way of predicting the levels of criminal behaviour and levels of police, court, and correctional activity. There are simply too many variables for accurate prediction as this slide shows. Crime is a very complex phenomenon and education levels, economic conditions, legislative changes, public attitudes, among other factors, may minimize the importance of predictions made solely on population trends.

Although these factors are discussed as if they are mutually exclusive and independent, in reality they are interdependent. A factor may reinforce, inhibit, or have no effect on other factors. Such factors may differ in terms of impact upon crime, some tending to worsen the situation, some to improve it. Firstly, let us look at the changing demographic picture. This slide shows how the latest population projections from Treasury and Economics demonstrate the effects of the drop in fertility rates, low population growth and the resulting ageing of Ontario's population. While Canada's population will age, the degree of ageing remains uncertain because future fertility behaviour and immigration patterns are uncertain.

Mrs. Campbell: Sorry.

Hon. Mr. Walker: That's quite all right. The moment I mentioned these fertility patterns, one of our members here gets carried away. Think of Mr. Stong.

Mrs. Campbell: I certainly do. I'm glad.

Hon. Mr. Walker: In the future a greater burden will be placed on the 20 to 64 age group to support the cost of benefits and services to the elderly. This has important implications for policy and planning related to both health care and pension costs. The pension commission is a major activity in the justice field that will be affected. Economic conditions will also, of course, have a significant impact on the development of policy concerning the volume, quality and the administration plans.

Hand in hand with pensions the ageing population will have an impact on life insurance policy initiatives, claims, and surveillance activities. Anticipated changes in the federal Bank Act, however, will have an even greater impact on loan and trust/credit union activities than will demographic trends.

If you look at the next slide you will see that in our opinion the ethnic mix of the population is as important as the size of the population. The population of Ontario has tended, since the Second World War, to greater and greater heterogeneity due principally to the infusion of massive numbers of immigrants and refugees with totally different cultural backgrounds. Ontario has derived many obvious cultural, social, and economic benefits from immigration, but there is evidence of change in the pattern of racial discrimination from covert to overt. The change in the population mix might lead to some increase in social tensions.

If Canada opens its gates wider to international migrants, it is probable that in the main, these people will be young—at least in the child-bearing years—and will originate from areas where fertility rates tend to be higher than those in North America.

In the context of criminal justice and the age mix, we need to examine closely the 15- to 29-year-old group. This group comprises by far the bulk of people dealt with by police, courts and corrections.

For example, 60 per cent of all indictable offence convictions occur in the 16- to 24-year age group—60 per cent. Similarly, estimates from the Ministry of Correctional Services indicate that between 65 per cent and 70 per cent of inmates in Ontario jails and institutions are between the ages of 16 and 29. In addition to being young, offenders are typically single and poorly educated—grade 10 or less.

The population projections for the 15- to-29 age group—based on a low fertility rate and a net migration of 30,000 per year—clearly indicate that in 1979 27.6 per cent of the population will be between 15 and 29, the crime-prone age group. In 1989 this proportion drops to 24.2 per cent. By 1991 only 23 per cent of the Ontario population will be between 15 and 29. In absolute numbers the decreases commence after 1982.

Feel free to interrupt at any point and ask questions.

[5:15]

Mr. Stong: Perhaps I could.

Mr. Warner: Could we return to the last slide, the one before this?

Hon. Mr. Walker: The last slide?

Mr. Warner: Yes, please. Alf may have the same question I have. You go ahead and ask it.

Mr. Stong: Maybe you will get to this later on, but when you were compiling these statistics did you make any study as to the relationship between learning disabilities and inmate population?

Mr. Warner: That was my question.

Mr. Stong: We have discussed this before.

Mr. Sinclair: Not for this purpose. This is for the purpose of indicating certain conditions, certain factors other than just the demographic ones in terms of their impact upon the justice system, without singling out any specific groups, Mr. Stong.

Mr. Stong: Has any study along those lines been done?

Mr. Sinclair: Yes, there has.

Mr. Stong: What are the results?

Mr. Chairman: Eight-five per cent of the inmate population in some jurisdictions turned out to have some kind of learning disability.

Mr. Stong: Yes, but I am talking about Ontario. I know those statistics from the United States; I quoted them in speeches in the House. What about Ontario? What are you doing about that? It was higher than 85 per cent.

Mr. Sinclair: There was one project about 10 years ago; I could dig it out for you. I'm afraid I don't remember the actual figures that came out of that, but I can find the piece of research for you. That was a long time ago.

Mr. Crispino, I don't know whether you know if since then there has been anything done specifically in terms of learning disability studies.

Mr. Crispino: I understand there has been some attempt—and I am not too sure as to the progress of the particular research study—within the planning and research branch of the Ministry of Correctional Services. Not too long ago a study was ini-

tiated to take a look at this area, as an exploratory study. I don't know at what point that study is.

Mr. Sinclair: Is it still under way?

Mr. Crispino: As far as I know it is.

Mr. Stong: When will it be completed, do you know?

Mr. Sinclair: We can find that out for you.

Mr. Stong: I wonder if the minister would undertake to report to us in the House on that very important aspect of this unfortunate statistic.

Mr. Warner: It is a crucial figure. You tell us 60 to 70 per cent of the inmate population is between the ages of 16 and 29. And you also mention—I don't know what the overlap is—that the offenders have achieved grade 10 or less. There is a correlation, I assume, between that and between those people who are between the ages of 16 and 29, having a grade 10 education or less. But what is of even greater significance is the learning disability. Mr. Stong has talked about this himself for a long period of time and is extremely knowledgeable on the subject. It seems to me that it is absolutely critical and it may provide part of the key to learning about helping young people so they do not run afoul of the law.

The figure for those inmates who have learning disabilities may be as high as 85 per cent in Ontario. What it says, I think, is that for starters you need a special program in your institutions, but you also need special programs in the schools themselves as a preventive.

Mr. Stong: Jut to take up on Mr. Warner's point, I wonder if the minister could undertake not only to give us some kind of results of any study you have with respect to ascertaining the proportion of inmates suffering from learning disabilities, but can you also give us the benefit of what direction, what policy direction you are taking, in terms of co-ordinating an effort between your ministry and the Ministry of Education, so that these children can be helped and don't end up in institutions. That is very important, extremely important, and we have been harping on it for three years—for four years, since 1975.

We would like to know what is happening?

Hon. Mr. Walker: We will certainly share what information we have with you. I don't think replying in the House would be the proper format to do it, although I don't know. If you wish to go that way, we certainly will, but let me undertake to supply to the two of you—and perhaps to others, should that be desired—the information we have. We have no qualms at all about providing you with the information we have within the Ministry of Correctional Services and what information we have within the secretariat. In addition to that we will offer you our own observations relative to directions.

Mr. Chairman: Mr. Minister, perhaps that information could be made available tomorrow. Tomorrow the justice committee is dealing with Bill 19, which is a co-ordinating bill that joins the two ministries, Colleges and Universities and Education, and the minister will be here at that time. So it could be in order, seen as part of the co-ordination process, albeit with another ministry, to file information relevant to Bill 19, since that was a matter dealt with under the debates in Bill 19, in cabinet.

Hon. Mr. Walker: I will certainly try and get what information I can tonight. What time do you meet tomorrow?

Mr. Chairman: After orders.

Hon. Mr. Walker: We may be able to get some information, although much of the shop will be packed up by 5:20 p.m.

Mr. Chairman: I recognize that.

Hon. Mr. Walker: We will have the morning and we might be able to get some information for you and get it here in time. Where is Mr. Crispino? Can you take on that task, Len?

Mrs. Campbell: Can I ask some additional questions? One of the concerns I had has now been expressed. Could you also give to this committee, if you have undertaken the study in the corrections area, for example, how many of those in our institutions between those ages have been brought up on incomes lower than the poverty level?

Hon. Mr. Walker: I don't know.

Mrs. Campbell: Could you at least undertake some review of that, because it is one of the statistics which is only available, I think, to the ministries, to assist us in ascertaining the cost of welfare as opposed to the cost of the administration of justice? You pay one way or the other. You must have something in your statistics on that point.

Hon. Mr. Walker: I am not personally familiar with any of these statistics and we do not ask for that information. When an individual becomes an inmate we don't ask what his income level was, or that of his parents, or otherwise. It might be very difficult to provide that, although my suspicion is that very learned people in the corrections field might well be able to say, from a ballpark point of view, the kind of origination

that some of these inmates might have. In fact they might be able to give a very good assessment of it.

We can endeavour to find out as much as possible.

Mrs. Campbell: I am not trying to intrude on their privacy, but if it is available.

The other thing I ask—I think I've asked for two years and I don't think I have really had an answer yet—when it comes to the female population, you did tell me that you were undertaking a study of the numbers of those females incarcerated as a result of sexual offences. All of this has to be part of your statistical study or the premises really don't work. That was something you were to look at two years ago. Maybe it has been done through corrections as opposed to justice. That was what we asked; I have seen no results of that.

Third, when we come to some conclusions about education what computer input has there been as to any prognosis? I would suspect that there are certain indications that in the next few years the level of education will be very high, particularly in the white-collar crimes and the computerized offences.

I would like to know what input there was into that kind of a situation, before I can understand the kinds of premises you are talking about.

Hon. Mr. Walker: That will be dealt with in a later slide. How far down is it?

Mr. Sinclair: Three quarters of the way through.

Mrs. Campbell: Thank you.

Hon. Mr. Walker: Let me continue. It would be fallacy to assume from this data that we can predict a simple decline in criminal activity because of the decline in the crime-prone age group. Such a conclusion would be valid only if we could assume all other things are equal.

While acknowledging the impact of changing demographics, we should not, as I said earlier, lose sight of many other social economic environmental factors. This is particularly important today, as we find ourselves in the midst of a more rapidly changing, complex and interdependent world.

Let me just touch upon the costs in the criminal justice system. Costs become increasingly important as government expenditures are further constrained. This slide illustrates the fact that since 1971 the actual expenditures in Ontario for all aspects of the justice system have increased. The greatest increase has been in police expenditures. It should be noted that 90 per cent of the $550 million spent by police in 1977-78 was accounted for by salaries and wages. For comparison purposes we show you a similar picture on a national scale. Now look at the projections along those lines when you measure the courts, corrections in the centre, and the police line on the outside.

Expenditures for justice services in Ontario on a per capita basis were $101 in 1977-78. Of this amount, $63 was spent on policing. One fifth was spent on corrections, $21.78, and a further 10 per cent, $10.40, on the courts. To complete the picture, a total of $3.67 per capita was spent on legal aid and native court workers. Crown counsel accounted for $1.81.

Let me broach into a definition of crime and decriminalization.

One other factor which will help determine the amount of crime committed will be the definitions we place on crime. What may be considered a crime today may be considered simply a nuisance in the year 2001 while, conversely, the pollution of the environment, for example, is likely to be viewed much more seriously in the future than it is today. Perhaps with a larger number of older people in the population there may be a greater demand for a more conservative response to behaviour including harsher penalties.

It is argued by some that our society imprisons far too many people for what are considered to be victimless or non-serious offences. In the event of decriminalization of such offences as marijuana, alcohol, gambling and other victimless occurrences, crime statistics will show a noticeable decrease in crime volume. However, it should be noted that decriminalization will not eliminate the offence entirely but will change its status and affect the procedures for dealing with it.

It should be noted that traffic and liquor offences are major contributors to admissions in Ontario's jails. For example—this is a very dramatic slide—53 per cent of the offences at admission fall into the categories of liquor or traffic. Alternatives, decriminalization and other options could change this picture considerably.

We should also be mindful of the fact that what is reported in crime statistics is reported crime. There is some evidence to show, for example, that approximately only half of actual crime is reported.

Using the offence of break and enter as an illustration, it can be seen that three fifths of all break-and-enter offences are reported to the police, and you will notice the cascading effect in this particular slide. One sixth of these are eventually cleared by having a

charge laid. In the final analysis, three fifths of the charges result in a conviction—or one in seventeen of all break and enters. Thus, convictions result in only a small proportion of cases. The following graph represents this attrition of events through the criminal justice process. It is based on material from British Columbia and Ontario. The different widths of the graph indicate the relative volume of offences disposed of at various points in the system.

It is also helpful to understand the movement of adult and juvenile offenders through the criminal justice system. There is substantial attrition which occurs at each stage, with less than one per cent of actual offenders sentenced to prison. The rates of attrition are shown for a combination of indictable and summary offences based on research studies in Ontario and Alberta. The different widths in the diagram indicate the relative volume of cases still within the system at that stage.

[5:30]

Community involvement: In recent years there has been more emphasis placed on bridging the gap between the community and the justice system. We have seen the opening of community resource centres and greater use of probation, parole and temporary absence. A continuation of the present trends will increasingly affect the correctional institutional population by providing an alternative to prison. Without this alternative the daily inmate population would have been 20 per cent greater in the last five years alone.

There is pressure for closer contact and liaison between the public and the police, and for an increase in the number of police foot patrols required in the cities and larger towns. There is a concern for community self-reliance through neighbourhood watch, kids on patrol, block parents and volunteer marine rescue units.

These examples typify the thrust toward greater community involvement, and if this involvement continues into the future, then some of the social and financial costs of crime can be averted. The amount may be less than we once believed; community corrections is not necessarily bought cheaply.

Mr. Warner: Question: temporary absence. Do you keep figures on the success rate?

Hon. Mr. Walker: Yes. In 1969 temporary absence was first brought into Ontario and pioneered actually at the Brampton Adult Training Centre. In the 10 years 82,000 temporary absences have been granted with a better than 98 per cent success completion rate. That has to be impressive by anyone's measure. We think that was a tremendous program.

Mr. Warner: What I'm asking too, is the successful conclusion of that. Do you know of the people who end up back into the justice system—

Hon. Mr. Walker: You are talking of recidivism.

Mr. Warner: Yes. Do you keep figures that will relate that?

Hon. Mr. Walker: Recidivism is a pretty hard thing to measure. If you take it within a two-year period, Correctional Services can give you some breakout of that. I can get that information and pass that on to you.

Mr. Warner: It might be useful in measuring the success of your temporary absence program. You have one measure of success which you've described to me. The second measure is looking at those people and whether or not they end up back into our court and jail system, as opposed to those who were not on the temporary absence program. Did they end up back, and so on? Another measure of the success of your program.

I would agree with you that, from the outside, it appears to me that that kind of program should be successful and likely is, but—

Hon. Mr. Walker: We can offer one comment. Most temporary absences lead to jobs. Often they are directly related to a job. A person is going out on temporary absence on a daily basis because there is a job. Or he goes into a community resource centre because there will be a job when he gets there. A job is the common denominator to avoiding recidivism. The degree of recidivism is cut in half for those people who have a job, measured against those people who do not have a job when they leave jail.

We are, within Correctional Services, emphasizing heavily the job-getting aspect to those people who are supervising people on parole and on probation. The job is a very important ingredient in all that.

Mr. Warner: That comes back to the basic problem, the poor, the unemployed and the uneducated.

Hon. Mr. Walker: It solves a lot of problems.

Mr. Warner: When we say "uneducated" that breaks into two parts really, those who have learning disabilities and others. Those are the basic problems. Obviously, your temporary absence program looks at one of those.

Mr. Chairman: What is the kids on patrol program? I haven't heard of that.

Hon. Mr. Walker: Do you know something on this? Is this the patrols?

Mr. Sinclair: It's a police community program in Metro Toronto involving young people in vandalism prevention in parks.

Mr. Chairman: So the patrol does signify an organized patrol? I'm always worried about some of the vigilante-type groups that after a little while end up being worse than the people they are supposed to be protecting against.

Hon. Mr. Walker: New technology: The amount of progress achieved in the last decade in the area of electronic technology surpasses that accomplished in the previous 50 years. While we may tend to think we can harness this progress for "our side," the fact is the new technology poses new threats and new challenges for the criminal justice system.

The opportunity for computer crime, for example, will increase. Recently in North America there have been several incidents of individuals knowledgeable in computer technology who have embezzled millions of dollars. While in absolute terms the numbers of such crimes may not be great, the impact from a financial standpoint is enormous. With the rapidity of advancement in this technology, the opportunity for crime in this area increases of course.

At a recent Canadian Industrial Communication Assembly, John Carroll, a University of Western Ontario computer science professor, characterized computer crime as North America's biggest growth industry. He estimated that in the current year Canadian business will undergo a loss of about $30 million as a consequence of computer crime. The average take is estimated at half a million dollars. Carroll describes computer crime as "the most efficient way of stealing that has yet been devised."

This kind of crime is typified by its impersonal nature, that is, in the sense that the perpetrators are not always clearly identifiable and there tends to be not one but hundreds of victims. In fact in some instances it may be difficult to prove that a crime has been committed. There may also be a tendency on the part of organization to not report a computer crime so as not to publicize the vulnerability of their information systems installations.

Unless greater emphasis is placed on the training of police in the area of computer crime, we may well find that the offender has developed a sophistication beyond that of the current methods for dealing with it.

Mr. Lawlor: What is this we are talking about? Credit cards or plugging in a computer to somebody's bank account?

Hon. Mr. Walker: Bank account.

Mr. Sinclair: Plugging in mainly. And not only to bank accounts, but large industrial firms who transfer funds by computer have been accessed by people who are aware of the program. The trouble is that much of it is not known. The banks are unwilling to let you know that they have been raided because this gives encouragement to others who try to find out what the weakness is in that particular software package that has allowed access to be made.

Mr. Warner: Could I be so bold as to ask your opinion on this? I take it that we're probably not dealing with someone who is uneducated or someone who is unemployed.

Mrs. Campbell: Oh, no, no.

Mr. Warner: So it's the totally opposite likely. What is the motivation behind it and what can you do—you've mentioned crime detection—from the preventive aspect? Do you have any thoughts on that, as opposed to opinions?

Hon. Mr. Walker: Certainly the motivation has to be money. Money is probably the single most important motivator in terms of crime in the broadest look. There are other things of course. Money is certainly a significant if not the most—

Mr. Lawlor: The root of all evil.

Mrs. Campbell: It's not money, it's the love of money.

Hon. Mr. Walker: Perhaps the greed and in some cases the need.

Mr. Warner: Does that suggest availability? It's one thing for people to sit around and think about cleaning out Fort Knox but it's another thing to have it in the realm of possibility. Is computer crime at the level where that's somewhat available? Is it not that difficult to perpetrate the crime? Is that the problem?

Hon. Mr. Walker: Some people can gain access to computers by a terminal they have, totally unrelated to any other terminal, that can be connected by telephone to some massive terminal somewhere. All they have to know is what the right numbers are. It's very simple for them to plug into the system if they know the right numbers.

Mr. Warner: If Frank Miller gets desperate about balancing his budget, we're in trouble.

Hon. Mr. Walker: We may have that answer. We're developing right now a capacity within our government to do just that.

Mrs. Campbell: The minister has said we need to develop greater expertise. I believe

I'm quoting correctly from the Solicitor General. He said that they had a staff of 40 involved in the whole white-collar area. They had two computer experts in that force. I'm assuming that is OPP only. Do you know whether any of the other police forces have experts in the computer field as well?

Hon. Mr. Walker: The RCMP have a squad in Ontario as I understand it, and as well the larger police forces—

Mrs. Campbell: Does Metro?

Hon. Mr. Walker: I can't tell you, but the larger police forces have a certain capacity for the white-collar crime. I don't think it reaches the point of computer crime. As well I understand there is a fair amount of purchase of service from outside agencies, when an accountant is required for instance as was discussed earlier, and is brought on stream for part of the investigation. Some agencies themselves provide the kind of experts required, so these are sometimes purchased by some operations depending on the detection of the level of crime at that moment in time.

Mr. Sinclair: May I go back to Mr. Stong's question about prevention? One aspect that hasn't been mentioned yet is that in installing a computer program, you can either buy well and buy carefully, or you can buy cheaply. One of the best methods of preventing computer crime is to somehow ensure that guidelines are laid down for the kind of installation, the kind of software package you buy, so you can insist it has to be of such-and-such a standard and security measures have to be taken to ensure that it cannot be tapped.

The other side of this question, of course, is that as computers are used more and more, you have two forces running against each other. The technology in terms of ensuring security improves, but so does the intelligence and so do the numbers of people who become familiar with computer programming.

Mrs. Campbell: Could I ask you about software? What is the status of the industry today as a result of the American decisions in the provision of software by the computer firms, because that was a matter of great concern some years ago? The city of Toronto used IBM equipment and purchased that service because of the software that went with it. Now, as I understand it, there are certain prohibitions. How does one approach the software package you're talking about, at this point?

Mr. Sinclair: Most of the hardware manufacturers, like IBM, NCR and others, developed software packages to go with their hardware. These can be various—

Mrs. Campbell: Not any longer, as I understand it.

Mr. Sinclair: Oh, yes, they still do.

Mrs. Campbell: Do they?

Mr. Sinclair: Oh, yes. Now it's also possible to purchase a software package from someone who specializes purely in software packaging. The minister mentioned yesterday a British film, Now the Chips are Down, which shows how the development of software packaging alone has become a tremendous industry, particularly in the United Kingdom. But now many people can produce software packages for you, once you tell them exactly what it is that you want in terms of information, in terms of security, in terms of dissemination of the information and so forth.

There is no prohibition that I know of against any hardware manufacturer producing a package. There may be a prohibition about the conditional sale, that you can't have one unless you buy the other.

Mrs. Campbell: I'm glad to hear that. The other thing is that I would just observe that in this area you will probably find that the criminal element would tend to be older than the range you've given us. The ones I've read about have been, for example, in the 30-year-old bracket rather than 15, say.

Mr. Sinclair: The best criminal of all, the most successful one, was a 17-year-old in California.

Mrs. Campbell: Is that so?

[5:45]

Mr. Sinclair: The other side of the argument about tending to be older is this, that the people who really have expertise in this area, remembering it's a very new science, are the people who are looking—as somebody said—for the quick dollar to make and tend to computer programming. If they are able to get access to a package that has not been securely designed, then we're in trouble.

Mr. Stong: One of the points you raised was the fact that a lot of these—

Mr. Chairman: Excuse me. I'm sorry, Mr. Stong, but we have some decisions to make.

At 5:45, at which time we'll have to leave for the vote, we will have 30 minutes left. The minister informs me that he has 26 minutes left in his slide presentation. One way in which we can handle this is that we can always come back next Wednesday, if that's your pleasure, since the House will be

sitting until Thursday. The other method of handling it will be, of course, to come back at six o'clock and deal with the matter at that time.

A third possibility is to carry the vote, and the minister has promised that he will give us photocopies of his script that he was going to read to us, plus the slides—

Hon. Mr. Walker: Photocopies of the slides.

Mr. Chairman: —and that he will entertain any questions then that you wish to raise with him, either informally or via correspondence.

Mrs. Campbell: Mr. Chairman, I would think that it is not appropriate that we should approve a vote prior to completing the time allocation of the estimate. Any other suggestion—I'm not the critic so I shouldn't be speaking—I would think we should have our normal time.

Mr. Stong: I know there's a lot of work that you want to get covered before the House adjourns. If we're short only four minutes—

Mr. Chairman: We're short 30 minutes. We have 30 minutes left in the vote.

Mr. Stong: And we have 26 minutes left of this presentation, which means we'll be short four minutes.

Mr. Chairman: Not with the number of questions that members of the committee—

Mr. Stong: We'll never get it finished. I am prepared, as one member of this committee, to accept photostat copies.

Mr. Lawlor: Speaking for the New Democrats, I'm prepared to do the same.

Mr. Chairman: Mr. Cureatz, would you go to a microphone and present the Conservative point of view and then we'll make a decision?

Mr. Cureatz: After conferring with my colleagues we agree wholeheartedly that copies would be probably most appropriate at this time.

Vote 1301 agreed to.

Mr. Chairman: The meeting is adjourned and we thank members of the committee and the minister.

Hon. Mr. Walker: Thank you, members. I'll see that copies of the whole presentation are forwarded to you and to all members—

Mr. Chairman: If you will send them to the clerk, the clerk will be happy to distribute it for you.

For the information of the committee, tomorrow morning we will be dealing with Bill 19. I reminded you of that earlier. If you are going to have substitutions on the committee, make sure that you have them here.

We'll also be dealing with the private bill dealing with the Bible College. It's a very quick procedural matter in which the bill will be withdrawn.

The committee adjourned at 5:49 p.m.

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